



COPY

**ORIGINAL SUMMONS
IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA
500 SOUTH DENVER AVENUE, TULSA, OKLAHOMA 74103**

Wesley Lewis, an individual resident of Tulsa County, Oklahoma, and a participant in the American Electric Power System Comprehensive Medical Plan,

Plaintiff,

versus

THE AMERICAN ELECTRIC POWER SYSTEM COMPREHENSIVE MEDICAL PLAN, an ERISA-qualified employee welfare benefit plan, and AMERICAN ELECTRIC POWER SERVICE CORPORATION, a foreign (non-Oklahoma) business entity registered to do business in the State of Oklahoma and Plan Administrator and Plan Fiduciary of the American Electric Power System Comprehensive Medical Plan, and ANTHEM HEALTH PLANS, INC. d/b/a ANTHEM BLUE CROSS AND BLUE SHIELD, a foreign (non-Oklahoma) business entity registered to do business in the State of Oklahoma and Claims Administrator and Plan Fiduciary of the American Electric Power System Comprehensive Medical Plan,

Defendants.

CJ-2022-01545
CASE NO.

Caroline Wall

TO:

American Electric Power Service Corporation
1 Riverside Plaza
Columbus, OH 43215

COUNSEL TO PLAINTIFF:

James W. Dunham, Jr.
2800 Bank of America Center
15 West 6th Street
Tulsa, OK. 74119

To the above-named Defendant(s):

You have been sued by the above named Plaintiff, and are directed to file a written answer to the attached Petition in the court at the above address within twenty (20) days after service of this summons upon you exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the Plaintiff. Unless you answer the Petition within the time stated judgment will be rendered against you with costs of the action.

Issued this 20 day of May, 2022.

Don Newberry, Court Clerk

By [Signature]
Deputy Court Clerk

This summons and attachment was served on _____

(date of service)

(Signature of person serving summons)

You may seek the advice of an attorney on any matter connected with this suit or your answer. Such attorney should be consulted immediately so that an answer may be filed within the time limit stated in this summons.

EXHIBIT 1

IN THE DISTRICT COURT WITHIN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

WESLEY LEWIS, an individual resident of
Tulsa County, Oklahoma,
Plaintiff,

vs.

THE AMERICAN ELECTRIC POWER
SYSTEM COMPREHENSIVE MEDICAL
PLAN, an ERISA-qualified employee welfare
benefit plan, and AMERICAN ELECTRIC
POWER SERVICE CORPORATION, a for-
eign (non-Oklahoma) business entity registered
to do business in the State of Oklahoma and
Plan Administrator and Plan Fiduciary of the
American Electric Power System Comprehen-
sive Medical Plan, and ANTHEM HEALTH
PLANS, INC. d/b/a ANTHEM BLUE
CROSS AND BLUE SHIELD, a foreign (non-
Oklahoma) business entity registered to do
business in the State of Oklahoma and Claims
Administrator and Plan Fiduciary of the Ameri-
can Electric Power System Comprehensive
Medical Plan,
Defendants.

2022-01545

CASE NO. _____

ATTORNEYS' LIEN CLAIMED

Caroline Wall

DISTRICT COURT
FILED

MAY 20 2022

DON NEWBERRY, Court Clerk
STATE OF OKLA. TULSA COUNTY

COMPLAINT

Plaintiff Wesley Lewis ("Plaintiff"), through his undersigned counsel, alleges and states
as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is a married adult male residing in Tulsa County, Oklahoma.
2. American Electric Power Service Corporation ("AEP") is a New York corporation at
all times relevant hereto duly registered to do business, and in fact doing business, in the State of
Oklahoma. AEP established, maintains, sponsors and is a designated "Plan Administrator" and
"Plan Fiduciary" of the American Electric Power System Comprehensive Medical Plan ("the
Plan").

3. The Plan is a self-funded welfare (health) benefits plan established and operated by AEP for the benefit of its employees and retirees pursuant to 29 U.S.C. §1001 *et. seq.*, the Employee Retirement Income Security Act of 1974 (“ERISA”).

4. Upon information and belief, the Plan designates Anthem Blue Cross and Blue Shield (“Anthem”) as its “Claims Administrator”. Upon further information and belief, Anthem is a trade name used by Anthem Health Plans, Inc., a foreign (non-Oklahoma) business entity registered to do business in the State of Oklahoma. The Plan vests Anthem with discretionary authority in discharging its duties as Claims Administrator for the Plan and Anthem does, in fact, exercise that discretion in adjudicating claims made by Plan participants and beneficiaries. Anthem is, and has at all times relevant hereto, been a Plan Fiduciary.

5. At all times relevant hereto, Plaintiff was a duly enrolled participant in the Plan.

6. Jurisdiction in this Court is proper under 28 U.S.C. § 1331 because this case asserts, *inter alia*, claims arising under section 502(a) [29 U.S.C. § 1132(a)] of ERISA, which vests concurrent jurisdiction for such claims in state and federal courts.

7. Venue is appropriate under 29 U.S.C. §1132(e)(2) and 28 U.S.C. §1391(c) based on ERISA’s nationwide service of process and venue provisions, because AEP, the Plan and Anthem do business in Tulsa County, Oklahoma, in their own capacities and by and through networks of BCBS affiliates. Further, the medical treatment at issue was rendered in Tulsa County, Oklahoma.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

8. Plaintiff received medical care and treatment at Hillcrest Hospital and other locations within Tulsa County, Oklahoma in April and May of 2018. Plaintiff’s medical providers (collectively, “Hillcrest”) billed Anthem for those services from their facilities in Tulsa, Oklahoma.

9. Specifically, Plaintiff underwent a treatment known as Stereotactic Body Radiation Therapy (SBRT). SBRT delivers precisely directed, highly concentrated doses of radiation to small are-

as in the body, allowing radiation oncologists to reduce exposure to surrounding healthy tissue and limit the number of treatment sessions required. In Plaintiff's case, these doses of radiation were applied in three separate, identical sessions. Upon information and belief, Plaintiff's providers billed the Plan, through Anthem, for each session. Upon further information and belief, Anthem approved and directed reimbursement to Plaintiff's providers for all three sessions but later retracted and "clawed back" reimbursement for the first session (the ABD) - only.

10. Plaintiff learned of Anthem's ABD in an "Explanation of Benefits" ("EOB") in late June or early July of 2018.

11. Upon so learning of the ABD, Plaintiff submitted an administrative appeal, *pro se*. This appeal was denied. Plaintiff secured counsel to submit a second administrative appeal, as (upon information and belief) permitted by the Plan.

12. ERISA and the Plan obligate Plan administrators to provide to participants and beneficiaries of the Plan, within established timeframes after request, documents under which the Plan was established or operated and all documents, records, and other information relevant to claimants' claims for benefits. Taken together and to the extent they relate to Plaintiff's specific claim or claims, such compilations are collectively referred to hereinafter as the "administrative record" ("AR") of the claim(s).

13. So that a sound second appeal could be prepared and submitted, Plaintiff's counsel, by letter dated October 16th, 2018, requested a copy of the AR compiled by Anthem in adjudicating the ABD and any and all other documents relevant to the ABD. *See* Affidavit of James W. Dunham, Jr. attached hereto, ("JWD Aff." or "Exhibit A") ¶ 7. With this written demand, Plaintiff provided a "Notice of Legal Representation" by which he informed Anthem that he had retained counsel and identified said counsel to Anthem. Plaintiff also supplied a HIPPA-compliant release allowing Anthem to provide the requested documents even if they included protected health information.

Id., ¶ 8.

14. Neither Plaintiff nor his counsel received any response to this request. *Id.*, ¶ 9

15. On January 8th, 2019, Plaintiff's counsel sent to Anthem a second written request for a copy of Plaintiff's AR. *Id.*, ¶¶ 10 and 11. Neither Plaintiff nor his counsel received any response to this request. *Id.*, ¶ 12.

16. On October 23rd, 2019, Plaintiff's counsel sent a third request for the AR. *Id.* ¶ 13. This request was submitted to both Anthem and AEP, whom counsel believed (in good faith) to be the "officially" designated Plan Administrator. No response was received from Anthem to this 3rd request but a response was received from AEP in the form a letter from Mr. Martin Rosenthal, claiming to be AEP's "Senior Counsel", dated November 26th, 2019. With this letter Mr. Rosenthal included a copy of the Plan's SPD. The letter further claimed that the written "Designation of Counsel" theretofore submitted by Plaintiff (three times) to identify his legal representative was legally insufficient pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPPA") and was, therefore, legally insufficient to authorize either the Plan or Anthem to disclose medical records to Plaintiff's legal representative. Other than the aforesaid SPD, this letter contained no part of the AR and made no reference to the HIPPA authorization included with Plaintiff's first three requests for the AR. *Id.*, ¶ 13.

17. Mr. Rosenthal also enclosed HIPPA release forms which he claimed had to be completed, signed by Plaintiff and submitted with any future requests for the AR. One was specific to and for AEP. The other was specific to and for Anthem. *Ibid.*

18. By letter dated December 12th, 2019, Plaintiff's counsel responded to Mr. Rosenthal's letter. *Id.* at ¶ 14.

19. December 19th, 2019, Plaintiff's counsel submitted a 4th request for the AR. *Id.* at ¶15. Therewith, Plaintiff's counsel provided Anthem with duly executed releases in the form(s) required

by Mr. Rosenthal. *Ibid.*

20. By letter dated January 3rd, 2020 (mailed NOT to Plaintiff's counsel but directly to Plaintiff's home address), Anthem acknowledged receipt of the 4th request for the AR but incorrectly characterized it as an "appeal". *Id.* at ¶ 16. Claiming that Plaintiff had yet to provide a proper form of release - which he had, thrice, as alleged above - Anthem enclosed yet another blank release and asked that it be completed and returned. Only then, Anthem claimed, could it "review" the "appeal" allegedly submitted by Plaintiff's counsel. *Ibid.*

21. On December 31st, 2019 (before Mr. Lewis received the letter noted immediately above), Plaintiff's counsel received an email from "brittany.shepard@anthem.com", stating:

Hello James Dunham Jr.

It has come to my attention you are trying to get an itemized lien from Anthem regarding Wesley Lewis. I have assist you with this request, although I will need additional information from you. Please email me a letter of representation with a signed authorization form from your client. Also I will need a description of the injury with a list of injuries. Please contact me if you need anything additional as I will be handling this case.

Thank you
Brittany Shepherd

Id. at ¶ 17.

22. Though Plaintiff's counsel did not know what Ms. Shepard meant by "an itemized lien", he nonetheless saw this as an opportunity to directly engage Anthem, the Claims Administrator, and, possibly, acquire the claim documents he'd been seeking for more than a year. So, he responded. This led to a three-week-long exchange of emails between Plaintiff's counsel and Ms. Shepard and a glimmer of hope to that Counsel might soon secure a copy of the AR he needed to submit a proper appeal of the ABD. *Id.* at ¶ 18.

23. It did not. Rather, after the aforesaid emails and a lengthy telephone conversation between Plaintiff's counsel, Ms. Shepard and several Anthem operatives on or about January 22nd, 2020, he was informed that the claim had been "closed" but that, should the claimant (Plaintiff)

wish, it could be reopened by sending a letter to the very party and address to which Plaintiff's very first request for the AR had been made. In other words, start over. *Id.* at ¶ 19.

24. By letter dated February 25th, 2020, Plaintiff's counsel sent a final request for the AR. Therein, he explained all of the foregoing. He enclosed yet again HIPPA releases on the forms supplied months earlier by Mr. Rosenthal. Also enclosed was a detailed request for the AR signed by Mr. Lewis himself so there could be no confusion over counsel's authority. *Id.* at 20.

25. Neither Plaintiff nor his counsel received any response(s) to this fifth and final request. *Id.* at 21.

26. The failures of AEP and Anthem, to produce the documents under which the Plan was operated, as requested by the Plaintiff provides the factual and legal bases under 29 U.S.C. § 1132(c)(1)(B) for this Court to impose statutory penalties of \$110 per day from the 31st day after Plaintiff's first request for the administrative record of his claim(s) and/or the claim(s) of his health care provider(s) was sent to Defendants, or either of them, and accruing at said daily rate until the relevant documents are produced.

27. Denied the information necessary to prepare and press a second administrative appeal, neither Plaintiff nor his counsel could do so and the ABD stands, unchallenged beyond Mr. Lewis *pro se* appeal referenced in ¶ 10, above.

28. The ABD was an unlawful, arbitrary and capricious breach of contract by which Plaintiff and his healthcare providers were deprived of Plan benefits, providing both factual and legal bases for an award of said benefits against the Plan and Anthem to Plaintiff in the full amount of the denied claim(s).

29. The ABD was also an unlawful, arbitrary and capricious breach of the fiduciary duties owed to Plaintiff by AEP as Plan Administrator and Anthem as Claims Administrator, depriving him and his healthcare providers of Plan benefits, providing both factual and legal bases for an

award of said benefits against the Plan and Anthem to Plaintiff in the full amount of the denied claim(s).

CLAIMS FOR RELIEF

First Claim for Relief

29 U.S.C.A. § 1132(a)(1)(B): Declaratory Relief: Exhaustion

30. Upon information and belief, applicable law and the Plan provide that if the Claims Administrator, or the Plan or its designee, do/does not strictly adhere to all claim determination and appeal requirements under the Plan and/or applicable federal law, participants such as Plaintiff are considered to have exhausted the Plan's appeal requirements ("Deemed Exhaustion") and may proceed with any available remedies under ERISA. Accordingly, Plaintiff seeks and prays for Declaratory Relief (a judicial declaration) to the effect that Defendants' individual and/or collective failure(s) to comply with the Plan's and ERISA's disclosure requirements by failing/refusing to provide Plaintiff with the Plan records he requested between October 16th, 2018, and the present, as described above warrant(s), a finding that Plaintiff has exhausted his administrative remedies and may now bring a civil action for Plan benefits, and;

Second Claim for Relief

29 U.S.C.A. § 1132(a)(1)(B): Declaratory Relief: De Novo Review

31. 29 U.S.C.A. § 1132(a)(3): Second, Plaintiff seeks and prays for additional Declaratory Relief (a judicial declaration) to the effect that the individual and/or collective failure(s) of the Plan Administrator (AEP) and/or the Claims Administrator (Anthem) to comply with ERISA's disclosure requirements by failing/refusing to provide Plaintiff with the Plan records he requested between October 16th, 2018 and the present as described above constitute(s) a procedural irregularity of such import and magnitude as to warrant(s) de novo review of the ABD irrespective of whether the Plan affords deference to either of said administrators, or not, and;

Third Claim for Relief

29 U.S.C.A. § 1132(a)(1)(B): Monetary Relief: Plan Benefits

32. 29 U.S.C.A. §1132(a)(1)(B): Third, Plaintiff seeks and prays for a judgment determining that the ABD was and is a wrongful, arbitrary and capricious denial of ERISA benefits provided by the Plan, made by Anthem in its role as claims administrator and adopted and acted upon by the Plan, warranting, pursuant to 29 U.S.C. §1132(a)(1)(B), a monetary judgment against the Plan and/or the Plan Administrator in the minimum amount of \$25,385.51, payable directly to Plaintiff, and;

Fourth Claim for Relief

29 U.S.C. §1132(c)(1): Monetary Relief: Statutory Penalties Under 29 U.S.C. §1132(c)(1)

33. 29 U.S.C.A. §1132(c)(1): Fourth, Plaintiff seeks and prays for an award of statutory damages pursuant to 29 U.S.C. §1132(c)(1) based on the failure of the Plan administrators, to produce within 30 days of Plaintiff's proper requests for documents under which the Plan was established or operated and any and all other records compiled by any of the Defendants and described or listed by 29 C.F.R. § 2560.503-1(g)(B)(h)(2) and/or 29 CFR 2560.503-1(m)(8) and which should have been provided to Plaintiff in response to his requests and/or the requests of his counsel as described above. Specifically, Plaintiff prays for an award equal to \$110.00 per day starting on the 31st day after Plaintiff's first proper request for the administrative record of his claim(s) and/or the claim(s) of his health care provider(s) was sent to Defendants, or either of them, and accruing at said daily rate until the relevant documents are produced, against AEP in its role as Plan Administrator, and;

Fifth Claim for Relief

29 U.S.C. §1132(g): Monetary Relief: Costs, Fees and Interest

34. Last, Plaintiff prays for awards of pre and post judgment interest upon any awards of monetary relief made by the Court, attorney fees and costs as allowed by law and warranted by the extent of Plaintiff's success on the merits of this action, if any, and for any and all other relief afforded by law.

Respectfully Submitted,

James W. Dunham, Jr., OBA #2532
2800 Bank of America Center
15 West 6th Street
Tulsa, OK. 74119
Voice: (918) 592-1144
Fax: (918) 592-1149
Email: elawyer@swbell.net
Counsel to Plaintiff

**AFFIDAVIT OF JAMES W. "JAY" DUNHAM, JR.
("JWD Aff.")**

Under penalty of perjury, James W. "Jay" Dunham, Jr. ("Affiant") swears and affirms as follows:

1. I am over the age of 18 years, have personal knowledge of all of the facts to which this Declaration pertains and am otherwise competent to make and give this sworn declaration.
2. I am a practicing Attorney at Law duly licensed by the Oklahoma Bar Association and have been, continuously, since October 13th, 1978 and by the Washington State Bar Association since 2015. My principal offices are and have at all times relevant hereto been physically located in Tulsa County, Oklahoma.
3. For the past 12 years (approximately) my practice has been concentrated in cases cognizable under the Employees Retirement Income Security Act of 1974 ("ERISA"). Specifically, I represent participants and beneficiaries of ERISA-governed employee welfare benefit plans who have claimed benefits of such plans but whose claims have been the subject of one or more adverse benefits determinations ("ABDs"), as that term is defined at 29 CFR 2560.503-1(m)(4).
4. In October of 2018 I received a telephone call from Mr. Wesley Lewis, an individual resident of Tulsa County, Oklahoma. Mr. Lewis informed me that:
 - a. He was a former (retired) employee of Public Service Company of Oklahoma (a/k/a "AEP-PSO"), and;
 - b. That he was a participant in a health care plan maintained by AEP-PSO for the benefit of certain employees and retirees ("the Plan"), and;
 - c. That he had recently undergone a complex medical procedure, and;
 - d. That the Plan paid for part of the procedure but not all of it as it should have, and;
 - e. That he had administratively appealed the Plan's failure to pay for the treatment in its entirety but that his appeal was unsuccessful, and;
 - f. That he believed that he had the right or obligation to assert an additional administrative appeal ;
 - g. That he wished to retain my services to prepare and submit a second administrative appeal on his behalf.
5. After reviewing what little paperwork Mr. Lewis had, I agreed to represent him.
6. In order to prepare a second administrative appeal, I needed to know the basis for the ABD(s) of Mr. Lewis' claim(s). Normally, that basis would be set forth in the administrative record ("AR") of Mr. Lewis' claim to that point. Such records are created, compiled, maintained and archived by ERISA administrators in the course of determining claims and appeals for plan benefits submitted by plan participants and their beneficiaries. ERISA administrators are required by law to provide copies of such records to claimants, if requested, after rendering an ABD. *See* 29 C.F.R. § 2560.503-1(i)(5), (j) and (m).
7. On October 16th, 2018, I sent a request for the AR related to Mr. Lewis' claim to:

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

See Exhibit A-1 attached hereto, pp. 1-2.

8. Included within the envelope containing said written request were a *Notice of Legal Representation*, duly signed by Mr. Lewis, by which he informed Anthem that he had retained my office as his "legal representative". See Exhibit A-1 attached hereto, p. 3. Also enclosed was a *HIPPA Authorization*, duly signed by Mr. Lewis, authorizing Anthem to disclose to my office medical records relevant to Mr. Lewis' claim. See Exhibit A-1 attached hereto, p. 4.
9. I received no substantive response to this written request from Anthem.
10. On January 8th, 2019, I submitted a second written request for a copy of Plaintiff's AR. This request was sent to:

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

See Exhibit A-2 attached hereto, p. 1. Included were reprints of the *Notice of Legal Representation* and the *HIPPA Authorization* originally sent with the first request. *Id.* at pp. 2-3.

11. I received no substantive response to this written request from Anthem.
12. October 23rd, 2019, I sent a third request for the AR of Mr. Lewis' claim. This was sent to:

The AEP System Comp. Medical Plan
Attn: Lonni L. Dieck
c/o AEP Service Corporation, Adm.
1 Riverside Plaza
Columbus OH 43215

A copy, with enclosures, was sent to

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

See Exhibit A-3 attached hereto, pp. 1-4.

13. No response to this 3rd request was received from Anthem. A response was received from AEP in the form a letter from Mr. Martin Rosenthal, AEP's "Senior Counsel". With this letter Mr. Rosenthal included a copy of the Plan's SPD. His letter claimed that the written *Notice of Legal Representation* theretofore used by Plaintiff to designate his legal representative was legally insufficient pursuant to Health Insurance Portability and Accountability Act of 1996 and was, therefore, legally insufficient to authorize either the Plan or Anthem to disclose medical records to Plaintiff's representative. Included were medical record release forms, separate ones for AEP and Anthem, which Mr. Rosenthal said had to be used. Other than the aforesaid SPD, this letter contained no part of the AR and made no reference to the *HIPPA Authorization* included with Plaintiff's first and second requests for the AR. See Exhibit A-4 attached hereto.
14. Rosenthal's letter was responded to by letter dated December 12th, 2019. See Exhibit A-5.
15. On December 19th, 2019, a fourth written request for a copy of Plaintiff's AR was submitted to:

The AEP System Comp. Medical Plan
c/o AEP Service Corporation, Adm.
1 Riverside Plaza
Columbus OH 43215

and

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

See Exhibit A-6 attached hereto, pp. 1-2. This 4th request explained the first 3 requests and the failures, where applicable, of both Anthem and AEP to respond and again asked for a copy of the AR. It enclosed duly completed and signed copies of the two HIPPA release forms proffered/demanded by Mr. Rosenthal and additional copies of the *Notice of Legal Representation* and *HIPPA Authorization* that were previously sent. *Id.*, pp. 3-7.

16. By letter dated January 3rd, 2020 (sent directly to Mr. Lewis' home address rather than to my office) Anthem acknowledged receipt of this 4th request for the AR but inaccurately characterized it as an "appeal". Further, in apparent reference to the "Designation of Representative/Authorization Form" supplied with Plaintiff's 4th Request, it claimed that "The form included is an incorrect form and not completed correctly. For these reasons, it is not valid." With this letter, Anthem enclosed yet another blank release (it was the exact same form supplied by Mr. Rosenthal and the exact form that was completed and sent with Plaintiff's 4th request for the AR, which Anthem's letter described as "an incorrect form") and demanded that it be completed and returned. Only then, Anthem claimed, could it "review" the "appeal" allegedly submitted by Plaintiff's counsel. This letter also "informed" Mr. Lewis that:

- If JAMES W DUNHAM, JR, ATTY-AT-LAW files the appeal, you won't be able to file a separate one for this service in the future
- If there's more information about the appeal that you'd like us to review, feel free to send it our way
- If we need more information, we may get in touch again or contact your doctor

See Exhibit A-7 attached hereto.

17. On December 31st, 2019, before Mr. Lewis received Anthem's aforesaid letter of January 3rd, 2020, Plaintiff's counsel received an email from brittany.shepard@anthem.com, stating:

Hello James Dunham Jr.

It has come to my attention you are trying to get an itemized lien from Anthem regarding Wesley Lewis. I have assist you with this request, although I will need additional information from you. Please email me a letter of representation with a signed authorization form from your client. Also I will need a description of the injury with a list of injuries. Please contact me if you need anything additional as I will be handling this case.

Thank you

Brittany Shepherd

See Exhibit A-8 attached hereto.

18. This led to an exchange of emails offering a glimmer of hope that a copy of the AR needed to submit an appeal of Mr. Lewis' ABD, and which at that point in time had been pursued for more than 13 months, might be soon obtained. See Exhibit A-9 attached hereto, pp. 1 through 20.
19. It was not. Rather, after the aforesaid emails were exchanged, Ms. Shepard initiated an extensive telephone conversation between she, several other Anthem operatives and I on January 22nd, 2020. Therein, I was informed that the claim had been "closed" but that, should Mr.

Lewis wish, it could be reopened by sending a letter to the very party and address to which my very first request for the AR had been made. In other words, start over.

20. By letter dated February 25th, 2020, I sent a fifth and final request for the AR. Therein, I explained all of the foregoing. I enclosed yet another completed and signed release on the form supplied months earlier by Mr. Rosenthal. Also enclosed was a detailed request for the AR signed by Mr. Lewis himself, personally, so there could be no confusion over my authority. See Exhibit A-10 attached hereto.

21. Neither my office nor Mr. Lewis received any response to this fifth and final request.

Further sayeth affiant naught.



James W. Dunham, Jr., OBA # 2532

James W. Dunham, Jr.

Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: elawyer@swbell.net

Tuesday, October 16, 2018

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

RE: **Wesley Lewis**
Claim No:
Member ID:
Case Number: **APP-COMM-18015**
Policyholder: **Public Service Company of Oklahoma**

Sir or Ma'am:

The undersigned represents Wesley Lewis ("Claimant") in the matter referenced ("the Claim"). In ERISA parlance, we are his "Legal Representative". A notice so stating, under Mr Lewis's signature, is enclosed, along with an appropriate HIPPA release. Please ensure that all further communications in this matter are directed to this office. Your cooperation in this regard is both anticipated and appreciated.

Please note that Claimant takes exception to Anthem's September 24th, 2018, denial of his Claim and will appeal it. This letter is not the appeal itself but is only notice of his intent to appeal. The actual appeal will be submitted within the time allotted by law and the terms of the relevant plan - assuming Anthem's prompt compliance with the below document requests.

Please provide, as soon as possible, the following:

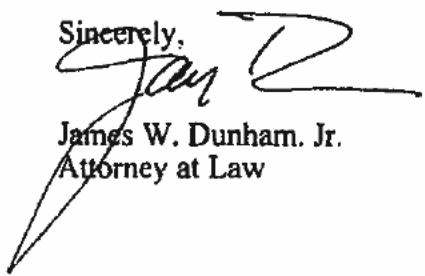
- The entire administrative record ("the AR") considered or relied upon by Anthem in denying the Claim;
- If not included in the AR, the ERISA Plan(s) of which the disputed coverage was a part;
- If not included in the AR, the Policy (including certificate(s) of coverage) providing coverage for the Plan;
- If not included in the AR, the Plan SPD;
- To the extent not included in the AR, all documents that are "relevant" to the claim within the meaning of 29 C.F.R. § 2560.503-1(m)(8);
- To the extent that any may be separate from the AR, all Claim-related claim files and documents therein (e.g. intra-office emails, "SOAP notes", SMS communications, activity and/or claim logs, medical reports and records, etc.);
- If not included in the AR, all correspondence between Anthem and any third parties regarding the Claim (e.g. the employer, policy owner(s), policy holder(s) or prior plan administrators, insurers or fiduciaries);
- If not included in the AR, all Plan enrollment forms completed by Claimant;

- If not included in the AR, all correspondence between Anthem and PSO employees regarding the Plan, including brochures or "flyers" or other documents by which Anthem published information regarding the Plan's benefits and how to enroll for them;
- Any claims manuals relevant to the Claim or its handling by Anthem.

As you know, the appeal must be submitted within certain temporal limitations. Thus, time is of the extreme essence.

If you have any questions, please don't hesitate to call. Until then, I am

Sincerely,



James W. Dunham, Jr.
Attorney at Law

NOTICE OF LEGAL REPRESENTATION

August 13th, 2018

From: Wesley Lewis
To: Anthem Blue Cross/Blue Shield
Claim #:

To whom it may concern:

Please note, and record in my claim files, that I have retained attorney James W. Dunham, Jr., as my legal representative with respect to my claims for employer-sponsored benefits, including (but not limited to) all claims for life, AD&D, health, disability and/or retirement benefits.

Sincerely,

Wesley Lewis 10/16/18
Wesley Lewis

HIPPA AUTHORIZATION FOR ACCESS BY PATIENT OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

I hereby authorize and its duly authorized agents and employees to release or obtain information and copies of records pertaining to:

PATIENT NAME: Wesley Lewis

TREATMENT DATES: From: January 1st, 2018 to October 16th, 2018

INFORMATION TO BE USED OR DISCLOSED			PURPOSE OF USE OR DISCLOSURE
<input checked="" type="checkbox"/> Entire Medical Record (*NOTE: This includes the release of x-rays films, MRI/CT scans, etc., though you will be notified by the party identified below in the event that any imaging studies are actually required.)	<input type="checkbox"/> Admission and Discharge Summaries <input type="checkbox"/> History & Physical <input type="checkbox"/> Psychiatric Evaluation <input type="checkbox"/> Progress Notes <input type="checkbox"/> Consultations <input type="checkbox"/> Lab/Pathology Reports <input type="checkbox"/> Radiology Reports	<input type="checkbox"/> Cardiac/EKG Reports <input type="checkbox"/> Social History <input type="checkbox"/> Physician's Orders <input type="checkbox"/> Treatment Plans <input type="checkbox"/> Operative Reports <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Filing Insurance <input type="checkbox"/> Treatment or Consultation <input type="checkbox"/> Request of Patient or Their Legal Representative <input checked="" type="checkbox"/> Other (specify): <u>In furtherance of a legal claim or action</u>
PERSON(S) OR ORGANIZATION(S) TO WHOM PROTECTED HEALTH INFORMATION IS TO BE RE-LEASED:			
Name of Person/Organization:		James W. Dunham, Jr.	
Address:			
City/State/Zip Code:		Tulsa, OK 74119	
Telephone:		(918) 592-1144	
		Duplicate (if applicable)	

I understand:

- I may revoke this authorization at any time, in writing, except revocation will not apply to information already used or disclosed in response to this authorization. I may revoke this document by presenting my written revocation as provided in the Notice of Privacy Practices. Unless revoked or otherwise indicated, the automatic expiration will be one year from the date of the signature.
- I release the entities listed above, their agents and employees from any liability in connection with the use or disclosure of the protected health information covered by this authorization. The entity authorized to disclose the information will not be compensated by the recipient for the disclosure, except for the cost of copying and mailing as authorized by law.
- Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal law. However, the recipient may be prohibited from disclosing substance abuse information under the Federal Substance Abuse Confidentiality Requirements.
- I have the right to inspect the health information to be released and I may refuse to sign this authorization.
- Unless the purpose of this authorization is to determine payment of a claim for benefits, the requesting agency will not condition the provision of treatment or payment for my care on my signing this authorization.
- A copy of this authorization can be used as if it were an original.

THE INFORMATION AUTHORIZED FOR RELEASE MAY INCLUDE INFORMATION ABOUT COMMUNICABLE OR NON-COMMUNICABLE DISEASES. FURTHER, MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE HUMAN IMMUNODEFICIENCY VIRUS ALSO KNOWN AS ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). I FURTHER UNDERSTAND THAT MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE OR HAVE BEEN TREATED FOR PSYCHOLOGICAL OR PSYCHIATRIC CONDITIONS OR SUBSTANCE ABUSE.

Wesley Lewis
Signature of Patient or Legal Representative

10/16/18
Date

Description of Legal Representative's Authority

Expiration Date of Authorization

NOTICE OF RIGHTS: Information in your medical record that you have or may have a communicable or venereal disease is made confidential by law and cannot be disclosed without your permission except in limited circumstances including disclosure to persons who have had risk exposures, disclosure pursuant to an order of the court of the Department of Health, disclosure among health care providers or disclosure for statistical or epidemiological purposes. When such information is disclosed, it cannot contain information from which you could be identified unless disclosure of that identifying information is authorized by you, by an order of the court or the Department of Health or by law.

James W. Dunham, Jr.*

Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK. 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: elawyer@swbell.net

Practice limited to ERISA

Tuesday, January 8, 2019

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

RE: Wesley Lewis
Claim No:
Member ID:
Case Number: APP-COMM-18015
Policyholder: Public Service Company of Oklahoma

Sir or Ma'am:

The undersigned represents Wesley Lewis ("Claimant") in the matter referenced ("the Claim"). In ERISA parlance, we are his "Legal Representative". A notice so stating, and demanding the administrative record ("AR") underlying your reimbursement denial, was sent to you October 16th, 2018 (copy enclosed). In response, we received correspondence, including a demand for prepayment, from "MRO", a medical records company.

Please note that we did not request Mr. Lewis' medical records. We demanded the AR for his health insurance claims that were denied. While that may contain some, or even all, of his medical records, they don't constitute the AR in and of themselves.

We have yet to receive the AR. Therefore, the running of his appeal time is tolled until we receive the complete AR. Further, your failure to provide the requested information within 30 days (i.e. by November 15th, 2018) may result in a penalty against the Plan's administrator and/or the Plan's claims administrator of up to \$110.00 per day for each day of noncompliance, pursuant to 29 U.S.C. 1132(c)(1)(B) and 29 C.F.R. § 2575.502c-1. If you believe you have no responsibility for supplying the AR, please so advise and identify who *is* supposed to supply it (e.g. some other plan administrator or sponsor), if anyone.

As you know, the appeal should be submitted within certain temporal limitations. Though these limits are currently tolled by your failure to send the AR, time remains of the extreme essence.

If you have any questions, please don't hesitate to call. Until then, I am

Sincerely,

 **COPY**
James W. Dunham, Jr.
Attorney at Law

*Admitted in Oklahoma & Washington
Direct Dial (Voice): (918) 359-2706
Direct Dial (Fax): (918) 217-1048

NOTICE OF LEGAL REPRESENTATION

August 13th, 2018

From: Wesley Lewis
To: Anthem Blue Cross/Blue Shield
Claim #:

To whom it may concern:

Please note, and record in my claim files, that I have retained attorney James W. Dunham, Jr., as my legal representative with respect to my claims for employer-sponsored benefits, including (but not limited to) all claims for life, AD&D, health, disability and/or retirement benefits.

Sincerely,

Wesley Lewis 10/16/18
Wesley Lewis

HIPPA AUTHORIZATION FOR ACCESS BY PATIENT OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

I hereby authorize and its duly authorized agents and employees to release or obtain information and copies of records pertaining to:

PATIENT NAME: Wesley Lewis

TREATMENT DATES: From: January 1st, 2018 to October 16th, 2018

INFORMATION TO BE USED OR DISCLOSED			PURPOSE OF USE OR DISCLOSURE
<input checked="" type="checkbox"/> Entire Medical Record (*NOTE: This includes the release of x-rays films, MRI/CT scans, etc., though you will be notified by the party identified below in the event that any imaging studies are actually required.)	<input type="checkbox"/> Admission and Discharge Summaries <input type="checkbox"/> History & Physical <input type="checkbox"/> Psychiatric Evaluation <input type="checkbox"/> Progress Notes <input type="checkbox"/> Consultations <input type="checkbox"/> Lab/Pathology Reports <input type="checkbox"/> Radiology Reports	<input type="checkbox"/> Cardiac/EKG Reports <input type="checkbox"/> Social History <input type="checkbox"/> Physician's Orders <input type="checkbox"/> Treatment Plans <input type="checkbox"/> Operative Reports <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Filing Insurance <input type="checkbox"/> Treatment or Consultation <input type="checkbox"/> Request of Patient or Their Legal Representative <input checked="" type="checkbox"/> Other (specify): <u>In furtherance of a legal claim or action</u>
PERSON(S) OR ORGANIZATION(S) TO WHOM PROTECTED HEALTH INFORMATION IS TO BE RE-LEASED:			
		Duplicate (if applicable)	
Name of Person/Organization:	James W. Dunham, Jr.		
Address:			
City/State/Zip Code:	Tulsa, OK 74119		
Telephone:	(918) 592-1144		

I understand:

- I may revoke this authorization at any time, in writing, except revocation will not apply to information already used or disclosed in response to this authorization. I may revoke this document by presenting my written revocation as provided in the Notice of Privacy Practices. Unless revoked or otherwise indicated, the automatic expiration will be one year from the date of the signature.
- I release the entities listed above, their agents and employees from any liability in connection with the use or disclosure of the protected health information covered by this authorization. The entity authorized to disclose the information will not be compensated by the recipient for the disclosure, except for the cost of copying and mailing as authorized by law.
- Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal law. However, the recipient may be prohibited from disclosing substance abuse information under the Federal Substance Abuse Confidentiality Requirements.
- I have the right to inspect the health information to be released and I may refuse to sign this authorization.
- Unless the purpose of this authorization is to determine payment of a claim for benefits, the requesting agency will not condition the provision of treatment or payment for my care on my signing this authorization.
- A copy of this authorization can be used as if it were an original.

THE INFORMATION AUTHORIZED FOR RELEASE MAY INCLUDE INFORMATION ABOUT COMMUNICABLE OR NON-COMMUNICABLE DISEASES. FURTHER, MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE HUMAN IMMUNODEFICIENCY VIRUS ALSO KNOWN AS ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). I FURTHER UNDERSTAND THAT MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE OR HAVE BEEN TREATED FOR PSYCHOLOGICAL OR PSYCHIATRIC CONDITIONS OR SUBSTANCE ABUSE.

Wesley Lewis
Signature of Patient or Legal Representative

10/16/18
Date

Description of Legal Representative's Authority

Expiration Date of Authorization

NOTICE OF RIGHTS: Information in your medical record that you have or may have a communicable or venereal disease is made confidential by law and cannot be disclosed without your permission except in limited circumstances including disclosure to persons who have had risk exposures, disclosure pursuant to an order of the court of the Department of Health, disclosure among health care providers or disclosure for statistical or epidemiological purposes. When such information is disclosed, it cannot contain information from which you could be identified unless disclosure of that identifying information is authorized by you, by an order of the court or the Department of Health or by law.

James W. Dunham, Jr.*

Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK. 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: clawyer@swbell.net

Practice limited to ERISA

Wednesday, October 23, 2019

The AEP System Comp. Medical Plan
Attn: Lonni L. Dieck
c/o AEP Service Corporation, Adm.
1 Riverside Plaza
Columbus OH 43215

RE: Participant: Wesley Lewis
Claim No:
Member ID:
Case Number: APP-COMM-18015
Policyholder: Public Service Company of Oklahoma

Ms. Dieck:

The undersigned represents Wesley Lewis, a retired AEP employee ("Claimant"), in the matter referenced ("the Claim"). In ERISA parlance, we are his "Legal Representative". A notice so stating, and requesting the administrative record ("AR") underlying a pre-approved reimbursement denial, was sent to Anthem Blue Cross on October 16th, 2018 (copy enclosed). We received no response to this request.

We sent a second request on January 18th, 2019. This request, too went unanswered.

We do a great deal of work in the area of ERISA. It is not uncommon to receive replies from plan insurers or TPAs stating that records request of this nature - authorized by statute - should be directed to some other operative in the ERISA plan at issue, usually the "official" plan administrator. We didn't even receive one of those. We learned of the identity of the Plan Administrator - you - only after retaining the services of an investigator.

This is, then, our third request for the records referenced in our first request. If you would, please see that it gets into the hands of the plan operative that can supply us with the information and documents we need to lodge the statutorily required administrative appeal. Without that information - which the plan is obligated to provide us - we are unable to do that. Stated otherwise, we cannot provide you what is your legal right to have - a chance to reconsider your adverse benefit determination without a lawsuit - unless you provide us with what we have a legal right to have - the administrative record (including a copy of the policy of insurance funding plan benefits, if there is one) underlying that determination.

Though they are described in the enclosed copies, for your convenience, we are requesting:

- The entire administrative record ("the AR") considered or relied upon by Anthem in denying the Claim;
- If not included in the AR, the ERISA Plan(s) of which the disputed coverage was a part;
- If not included in the AR, the Policy (including certificate(s) of coverage) providing coverage for the Plan;

- If not included in the AR, the Plan SPD;
- To the extent not included in the AR, all documents that are "relevant" to the claim within the meaning of 29 C.F.R. § 2560.503-l(m)(8);
- To the extent that any may be separate from the AR, all Claim-related claim files and documents therein (e.g. intra-office emails, "SOAP notes", SMS communications, activity and/or claim logs, medical reports and records, etc.);
- If not included in the AR, all correspondence between Anthem and any third parties regarding the Claim (e.g. the employer, policy owner(s), policy holder(s) or prior plan administrators, insurers or fiduciaries);
- If not included in the AR, all Plan enrollment forms completed by Claimant;
- If not included in the AR, all correspondence between Anthem and PSO employees regarding the Plan, including brochures or "flyers" or other documents by which Anthem published information regarding the Plan's benefits and how to enroll for them;
- Any claims manuals relevant to the Claim or its handling by Anthem.

If you have any questions, please don't hesitate to call. Until then, I am

Sincerely,

James W. Dunham, Jr.
Attorney at Law

cc: Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

NOTICE OF LEGAL REPRESENTATION

August 13th, 2018

From: Wesley Lewis
To: Anthem Blue Cross/Blue Shield
Claim #:

To whom it may concern:

Please note, and record in my claim files, that I have retained attorney James W. Dunham, Jr., as my legal representative with respect to my claims for employer-sponsored benefits, including (but not limited to) all claims for life, AD&D, health, disability and/or retirement benefits.

Sincerely,

Wesley Lewis 10/16/18
Wesley Lewis

HIPPA AUTHORIZATION FOR ACCESS BY PATIENT OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

I hereby authorize and its duly authorized agents and employees to release or obtain information and copies of records pertaining to:

PATIENT NAME: Wesley Lewis

TREATMENT DATES: From: January 1st, 2018 to October 16th, 2018

INFORMATION TO BE USED OR DISCLOSED			PURPOSE OF USE OR DISCLOSURE
<input checked="" type="checkbox"/> Entire Medical Record (*NOTE: This includes the release of x-rays films, MRI/CT scans, etc., though you will be notified by the party identified below in the event that any imaging studies are actually required.)	<input type="checkbox"/> Admission and Discharge Summaries <input type="checkbox"/> History & Physical <input type="checkbox"/> Psychiatric Evaluation <input type="checkbox"/> Progress Notes <input type="checkbox"/> Consultations <input type="checkbox"/> Lab/Pathology Reports <input type="checkbox"/> Radiology Reports	<input type="checkbox"/> Cardiac/EKG Reports <input type="checkbox"/> Social History <input type="checkbox"/> Physician's Orders <input type="checkbox"/> Treatment Plans <input type="checkbox"/> Operative Reports <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Filing Insurance <input type="checkbox"/> Treatment or Consultation <input type="checkbox"/> Request of Patient or Their Legal Representative <input checked="" type="checkbox"/> Other (specify): <u>In furtherance of a legal claim or action</u>
PERSON(S) OR ORGANIZATION(S) TO WHOM PROTECTED HEALTH INFORMATION IS TO BE RE-LEASED:			
		Duplicate (if applicable)	
Name of Person/Organization:	James W. Dunham, Jr.		
Address:			
City/State/Zip Code:	Tulsa, OK 74119		
Telephone:	(918) 592-1144		

I understand:

- I may revoke this authorization at any time, in writing, except revocation will not apply to information already used or disclosed in response to this authorization. I may revoke this document by presenting my written revocation as provided in the Notice of Privacy Practices. Unless revoked or otherwise indicated, the automatic expiration will be one year from the date of the signature.
- I release the entities listed above, their agents and employees from any liability in connection with the use or disclosure of the protected health information covered by this authorization. The entity authorized to disclose the information will not be compensated by the recipient for the disclosure, except for the cost of copying and mailing as authorized by law.
- Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal law. However, the recipient may be prohibited from disclosing substance abuse information under the Federal Substance Abuse Confidentiality Requirements.
- I have the right to inspect the health information to be released and I may refuse to sign this authorization.
- Unless the purpose of this authorization is to determine payment of a claim for benefits, the requesting agency will not condition the provision of treatment or payment for my care on my signing this authorization.
- A copy of this authorization can be used as if it were an original.

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Wesley Lewis
Signature of Patient or Legal Representative

10/16/18
Date

Description of Legal Representative's Authority

Expiration Date of Authorization

NOTICE OF RIGHTS: Information in your medical record that you have or may have a communicable or venereal disease is made confidential by law and cannot be disclosed without your permission except in limited circumstances including disclosure to persons who have had risk exposures, disclosure pursuant to an order of the court of the Department of Health, disclosure among health care providers or disclosure for statistical or epidemiological purposes. When such information is disclosed, it cannot contain information from which you could be identified unless disclosure of that identifying information is authorized by you, by an order of the court or the Department of Health or by law.



November 26, 2019

Martin S. Rosenthal
Senior Counsel
614/716-1646 (P)
614/716-2975 (F)
msrosenthal@aep.com

Via Certified Mail
Item No. 7017 2680 0000 2222 3909

James W. Dunham, Jr., Esq.
Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK 74119

Re: Document Request for Wesley Lewis

Dear Mr. Dunham:

This is in response to your letter addressed to The AEP System Comp. Medical Plan to the attention of Lonni Dieck dated October 23, 2019 on behalf of Wesley Lewis. That letter was received in this office on October 29. Under the circumstances, we can provide only some of the documents that you requested in your letter.

Our records show that Mr. Lewis was enrolled in the HRA Plan Option under the American Electric Power System Comprehensive Medical Plan. Therefore, enclosed we are providing you with the following:

- American Electric Power (AEP) System Comprehensive Medical Plan - HRA Plan Option - Summary Plan Description for Active Employees, Retirees and Surviving Dependents Under Age 65 - Issued 2016.
- Updates to the 2016 Benefit Plan Summary Plan Descriptions (2018 Release - Active Employees, Retirees and Surviving Dependents Under Age 65), which describes certain changes that have been made since the 2016 SPD document was published.

We are unable to provide you with any information related to the medical benefit claims that have been made by or on behalf of Mr. Lewis. Because of the restrictions on the disclosure of individually identifiable health information that are imposed by the Health Insurance Portability and Accountability Act of 1996, as amended, that information can be released only to the individual, that individual's personal representative (which does not include someone who is only acting as the individual's attorney, but rather someone who is explicitly authorized to make health care decisions on behalf of the individual - see 45 CFR §164.502(g)) or to someone who has been explicitly authorized by the individual to receive the requested information.

Therefore, we ask that you either (a) provide documentation sufficient for us to determine that you qualify as Mr. Lewis' personal representative or (b) have Mr. Lewis complete and sign the enclosed Authorization for Release of Health Information, and then please return it to me.

James W. Dunham, Jr., Esq.
November 26, 2019
Page 2

It is our understanding that Anthem provided a response to the letter it received from you dated January 8, 2019 by requesting that you provide Anthem with their version of this form. I have enclosed a copy of that form for your reference should you want to follow up directly with Anthem.

If you have any questions relating to the matters addressed in this letter, please let me know.

Very truly yours,


Martin S. Rosenthal
Senior Counsel

Enclosures

Exhibit A-5

James W. Dunham, Jr.*

Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK. 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: elawyer@swbell.net

Practice limited to ERISA

Thursday, December 12, 2019

The AEP System Comp. Medical Plan
Attn: Martin S. Rosenthal
msreosentha@aep.com

RE: Participant: Wesley Lewis
Claim No:
Member ID:
Case Number: APP-COMM-18015
Policyholder: Public Service Company of Oklahoma

Mr. Rosenthal:

Thank you for your response/letter of November 26th, 2019 regarding our referenced client and your retiree, Mr. Lewis (copy enclosed). He has completed and signed each of the two HIPAA releases you provided and we've sent them along to both the Plan Administrator (AEP) and the Claims Administrator (Anthem) along with renewed requests for the information we need to register an administrative appeal on his behalf.

I would like to address a couple of items raised in your cover letter.

When Mr. Lewis first sought our assistance, he had very little paperwork - most problematically, no copy of the policy from which we could identify the Plan Administrator, if there was one separate and apart from the Claims Administrator. In addition, of advanced years, his memory was of little assistance - a "poor historian" as doctors say. We had little choice but to direct our request for the administrative record of Mr. Lewis' claim to Anthem.

Respectfully, we take exception to your statement that Anthem responded. It didn't, to either our first request (10/16/18) or our second (01/08/19). We maintain detailed mail logs and while we can clearly determine that we sent out requests we can just as clearly determine we received no response(s). Hence our letter of 10/24/19 to AEP's address in Columbus, which we determined from the Plan's Form 5500 - itself a mighty task given the number of benefit plans maintained by AEP for its workforce and retirees, a separate 5500 for each and every one.

I would also like to point out that our earlier requests included Notice(s) of Legal Representation and lawful HIPAA releases signed by Mr. Lewis. No ERISA plan sponsors or claims administrators have ever indicated they were somehow deficient nor, until your letter, did AEP. In any event, as above noted, our renewed request(s) do enclose AEP's and Anthem's forms.

Again, thank you for your response. If you have any questions, please don't hesitate to call. Until then, I am

Sincerely,

s/ James W. Dunham, Jr.
James W. Dunham, Jr.
Attorney at Law

James W. Dunham, Jr.*

Bank of America Center
15 West 6th Street, Suite 2112
Tulsa, OK. 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: clawyer@swbell.net

Practice limited to ERISA

Tuesday, December 19th, 2019

The AEP System Comp. Medical Plan
c/o AEP Service Corporation, Adm.
1 Riverside Plaza
Columbus OH 43215

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

RE: **Wesley Lewis**
Claim No:
Member ID:
Case Number: **APP-COMM-18015**
Policyholder: **Public Service Company of Oklahoma**

Sir or Ma'am:

The undersigned represents Wesley Lewis, a retired AEP employee ("Claimant"), in the matter referenced ("the Claim"). In ERISA parlance, we are his "Legal Representative". A notice so stating, and requesting the administrative record ("AR") underlying a pre-approved reimbursement denial, was sent to Anthem Blue Cross on October 16th, 2018 (copy enclosed). We received no response to this request. We sent a second request on January 18th, 2019. This request, too went unanswered. We sent a 3rd directly to AEP on October 23rd, 2019. This was answered by AEP's Senior Counsel (Mr. Martin Rosenthal) by letter dated November 26th, 2019. While Mr. Rosenthal included a copy of the relevant policy, he was unable to provide the remainder of the documents requested because, as he stated, none of the prior requests enclosed a proper HIPPA release form. He enclosed proper forms for both AEP and Anthem. Those have been completed and signed by your insured and it is the purpose of this letter to provide copies to each of you and to reiterate (hopefully for the final time) the documents we need to lodge the statutorily required administrative appeal - and to which Mr. Lewis is entitled per ERISA.

We request:

- The entire administrative record ("the AR") considered or relied upon by Anthem in denying the Claim;
- If not included in the AR, the ERISA Plan(s) of which the disputed coverage was a part;
- If not included in the AR, the Policy (including certificate(s) of coverage) providing coverage for the Plan;
- If not included in the AR, the Plan SPD;
- To the extent not included in the AR, all documents that are "relevant" to the claim within the meaning of 29 C.F.R. § 2560.503-1(m)(8);

- To the extent that any may be separate from the AR, all Claim-related claim files and documents therein (e.g. intra-office emails, "SOAP notes", SMS communications, activity and/or claim logs, medical reports and records, etc.);
- If not included in the AR, all correspondence between Anthem and any third parties regarding the Claim (e.g. the employer, policy owner(s), policy holder(s) or prior plan administrators, insurers or fiduciaries);
- If not included in the AR, all Plan enrollment forms completed by Claimant;
- If not included in the AR, all correspondence between Anthem and PSO employees regarding the Plan, including brochures or "flyers" or other documents by which Anthem published information regarding the Plan's benefits and how to enroll for them;
- Any claims manuals relevant to the Claim or its handling by Anthem.

Please note we are not requesting medical records *per se*, except to the extent they are an integral part of the AR and/or the claim file.

If you have any questions, please don't hesitate to call. Until then, I am

Sincerely,

James W. Dunham, Jr.
Attorney at Law

cc: Martin Rosenthal

Anthem
BlueCross BlueShield

Si necesita ayuda en español para entender este documento, puede solicitarla sin costo adicional, llamando al número de servicio al cliente que aparece al dorso de su tarjeta de identificación o en el folleto de inscripción.

This form is to be filled out by a member if there is a request to release the member's health information to another person or company. Please include as much information as you can.

PART A: MEMBER INFORMATION

Member last name <i>Lewis</i>	Member first name <i>Wesley</i>	Middle initial	Member date of birth
Member street address	City <i>Tulsa</i>	State <i>OK</i>	ZIP CODE <i>74146</i>
Daytime telephone number (with area code)	Identification number (see identification card)	Group number (see identification card)	

PART B: PERSON OR COMPANY WHO WILL RECEIVE THIS INFORMATION

The following people or companies have the right to receive my information. (They must be 18 years of age or older). Please check each box that applies and enter first and last name.

<input type="checkbox"/> My spouse (enter first and last name)	<input type="checkbox"/> My parents (if you are over 18 - enter first and last name(s))
<input type="checkbox"/> My domestic partner (enter first and last name)	<input type="checkbox"/> My insurance broker or agent (enter the name of the company and first and last name, if you have it)
<input type="checkbox"/> My adult children (enter first and last name(s))	<input checked="" type="checkbox"/> Other (enter first and last name (if you have it), name of company, and how it's related to you) James Dunham attorney

PART C: INFORMATION THAT CAN BE RELEASED

I allow the following information to be used or released by Anthem Blue Cross and Blue Shield on my behalf (check only one box):

☒ **All my information.** This can include health, a diagnosis (name of illness or condition), claims, doctors and other health care providers and financial information (like billing and banking). This doesn't include sensitive information (see below) unless it is approved below.

OR

☐ Only limited information may be released (check all boxes below that apply to you).

- | | | |
|---|--|---------------------------------------|
| <input type="checkbox"/> Appeal | <input type="checkbox"/> Eligibility and enrollment | <input type="checkbox"/> Referral |
| <input type="checkbox"/> Benefits and coverage | <input type="checkbox"/> Financial | <input type="checkbox"/> Treatment |
| <input type="checkbox"/> Billing | <input type="checkbox"/> Medical records | <input type="checkbox"/> Dental |
| <input type="checkbox"/> Claims and payment | <input type="checkbox"/> Doctor and hospital | <input type="checkbox"/> Vision |
| <input type="checkbox"/> Diagnosis (name of illness or condition) and procedure (treatment) | <input type="checkbox"/> Pre-certification and pre-authorization (for treatment approvals) | <input type="checkbox"/> Pharmacy |
| | | <input type="checkbox"/> Other: _____ |

I also approve the release of the following types of sensitive information by Anthem Blue Cross and Blue Shield (check all boxes that apply to you):

☒ All sensitive information

OR

☐ Just information about topics checked below

- ☐ Abortion
☐ Abuse (sexual/physical/mental)
☐ Alcohol/substance abuse **
- ☐ Genetic testing
☐ HIV or AIDS
☐ Maternity
- ☐ Mental health
☐ Sexually transmitted illness
☐ Other:

**** I understand that my alcohol/substance abuse records are protected under Federal and State confidentiality laws and regulations and cannot be disclosed without my written consent unless otherwise provided for in the laws and regulations. I also understand that I may revoke (or cancel) this approval at any time, or as described below in Part E. I understand that I cannot cancel this approval when this form has already been used to disclose information.**

PART D: PURPOSE OF THIS APPROVAL

☐ To give out the information as shown on this form

OR

☒ For this reason(s): Administrative Appeal of ABD

PART E: DATE YOUR APPROVAL EXPIRES

If this document was not already withdrawn, this approval will end on the earliest of the following dates:

☒ One year from the signature date in Part F

OR

☐ Earlier than one year and upon the date, event or condition described below

PART F: REVIEW AND APPROVAL

I have read the contents of this form. I understand, agree, and allow Anthem Blue Cross and Blue Shield to the use and release of my information as I have stated above. I also understand that signing this form is of my own free will. I understand that Anthem Blue Cross and Blue Shield does not require that I sign this form in order for me to receive treatment or payment, or for enrollment or being eligible for benefits.

I have the right to withdraw this approval at any time by giving written notice of my withdrawal to Anthem Blue Cross and Blue Shield. I understand that my withdrawing this approval will not affect any action taken before I do so. I also understand that information that's released may be given out by the person or group who receives it. If this happens, it may no longer be protected under the HIPAA Privacy Rule. I am entitled to a copy of this form.

Member signature or Designated Legal Representative/Guardian signature

Date

X Wesley Lewis

DESIGNATED LEGAL REPRESENTATIVE/GUARDIAN

If this form is signed by someone other than the member or parent, such as a personal representative, legal representative or guardian on behalf of the member, please submit the following:

- A copy of a health care, general or Durable Power of Attorney.

OR

- A court order or other documentation that shows custody or other legal documentation showing the authority of the legal representative to act on the member's behalf.

Please complete the following:

Legal representative (print full name)		Legal relationship to member	
Legal representative street address	City	State	ZIP code
Signature		Date	
X			

Please return the completed form to:
Anthem Blue Cross and Blue Shield

Be sure to keep a copy of this form for your records.

FOR RECIPIENT OF SUBSTANCE ABUSE INFORMATION

This information has been disclosed to you from records protected by Federal Confidentiality of Alcohol or Drug Abuse Patient Records rules (42 CFP part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

For internal use only:

Inquiry tracking number

Authorization for Release of Health Information

Wesley Lewis
 Individual's Name (Please Print)

 Social Security Number

I. Information About the Use or Disclosure

I hereby authorize the use and/or disclosure of my individually identifiable health information as described below. I understand that this Authorization is voluntary and that I may revoke it at any time by submitting my revocation in writing to the entity providing the information. As used herein, the term "I," "me" or "my" refers to the individual.

Persons/organizations authorized to disclose the information (the "disclosing entity")

American Electric Power System Comprehensive Medical Plan (separately and/or collectively, the "Health Plan"), including any business associate of the Health Plan and any employee of American Electric Power Service Corporation or its affiliates that is authorized to receive protected health information from the Health Plan.

Persons/organizations authorized to receive and use the information (the "receiving entity")

Name James W. Dunham
 Address _____

Phone: 918-392-1144

Specific description of information to be used or disclosed:

The entire administrative record for claim # 2018/64/144102

Specific purpose of the disclosure:

Administrative appeal of claim denial

Expiration

12/2/2020

II. Important Information About Your Rights

I have read and understood the following statements about my rights:

- I may revoke this Authorization at any time prior to its expiration date by notifying the disclosing entity in writing, but the revocation will not have any effect on any actions the disclosing entity took before it received the revocation.
- A disclosing entity may not condition treatment, payment, enrollment or eligibility for benefits upon whether I sign this Authorization. In addition, the execution of this Authorization is not a condition to enrollment in, or eligibility for benefits under, the Health Plan or any other group health plan sponsored by (employer)
- The information that is used or disclosed pursuant to this Authorization may be redisclosed by the receiving entity. In such case, the information will no longer be subject to the protections of the HIPAA Privacy Rule, 45 C.F.R. Parts 160 and 164 (Subparts A and E).

III. Signature of Individual or Individual's Representative¹ (Form MUST be completed before signing)

Wesley Lewis
 Signature of Individual

Wesley Lewis
 (printed name)

Date _____

Signature of Individual's Representative (if any)

James W. Dunham
 (printed name)

Date _____

Relationship to Individual: _____

A copy of this Authorization shall be considered as effective and valid as the original

¹ If this authorization is not signed by the individual to whom the protected health information pertains but is signed by a personal representative of the individual, please provide documentation supporting the ability of the named personal representative to make health care decisions on behalf of the individual.

NOTICE OF LEGAL REPRESENTATION

August 13th, 2018

From: Wesley Lewis
To: Anthem Blue Cross/Blue Shield
Claim #:

To whom it may concern:

Please note, and record in my claim files, that I have retained attorney James W. Dunham, Jr., as my legal representative with respect to my claims for employer-sponsored benefits, including (but not limited to) all claims for life, AD&D, health, disability and/or retirement benefits.

Sincerely,
Wesley Lewis 10/16/18
Wesley Lewis

HIPPA AUTHORIZATION FOR ACCESS BY PATIENT OR DISCLOSURE OF PROTECTED HEALTH INFORMATION

I hereby authorize and its duly authorized agents and employees to release or obtain information and copies of records pertaining to:

PATIENT NAME: Wesley Lewis

TREATMENT DATES: From: January 1st, 2018 to October 16th, 2018

INFORMATION TO BE USED OR DISCLOSED			PURPOSE OF USE OR DISCLOSURE
<input checked="" type="checkbox"/> Entire Medical Record (*NOTE: This includes the release of x-rays films, MRI/CT scans, etc., though you will be notified by the party identified below in the event that any imaging studies are actually required.)	<input type="checkbox"/> Admission and Discharge Summaries <input type="checkbox"/> History & Physical <input type="checkbox"/> Psychiatric Evaluation <input type="checkbox"/> Progress Notes <input type="checkbox"/> Consultations <input type="checkbox"/> Lab/Pathology Reports <input type="checkbox"/> Radiology Reports	<input type="checkbox"/> Cardiac/EKG Reports <input type="checkbox"/> Social History <input type="checkbox"/> Physician's Orders <input type="checkbox"/> Treatment Plans <input type="checkbox"/> Operative Reports <input type="checkbox"/> Other (specify):	<input type="checkbox"/> Filing Insurance <input type="checkbox"/> Treatment or Consultation <input type="checkbox"/> Request of Patient or Their Legal Representative <input checked="" type="checkbox"/> Other (specify): <u>In furtherance of a legal claim or action</u>
PERSON(S) OR ORGANIZATION(S) TO WHOM PROTECTED HEALTH INFORMATION IS TO BE RE-LEASED:			
		Duplicate (if applicable)	
Name of Person/Organization:	James W. Dunham, Jr.		
Address:	15 West 6 th Street Suite 2112		
City/State/Zip Code:	Tulsa, OK 74119		
Telephone:	(918) 592-1144		

I understand:

- I may revoke this authorization at any time, in writing, except revocation will not apply to information already used or disclosed in response to this authorization. I may revoke this document by presenting my written revocation as provided in the Notice of Privacy Practices. Unless revoked or otherwise indicated, the automatic expiration will be one year from the date of the signature.
- I release the entities listed above, their agents and employees from any liability in connection with the use or disclosure of the protected health information covered by this authorization. The entity authorized to disclose the information will not be compensated by the recipient for the disclosure, except for the cost of copying and mailing as authorized by law.
- Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and no longer protected by federal law. However, the recipient may be prohibited from disclosing substance abuse information under the Federal Substance Abuse Confidentiality Requirements.
- I have the right to inspect the health information to be released and I may refuse to sign this authorization.
- Unless the purpose of this authorization is to determine payment of a claim for benefits, the requesting agency will not condition the provision of treatment or payment for my care on my signing this authorization.
- A copy of this authorization can be used as if it were an original.

THE INFORMATION AUTHORIZED FOR RELEASE MAY INCLUDE INFORMATION ABOUT COMMUNICABLE OR NON-COMMUNICABLE DISEASES. FURTHER, MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE HUMAN IMMUNODEFICIENCY VIRUS ALSO KNOWN AS ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS). I FURTHER UNDERSTAND THAT MY MEDICAL INFORMATION MAY INDICATE THAT I HAVE OR HAVE BEEN TREATED FOR PSYCHOLOGICAL OR PSYCHIATRIC CONDITIONS OR SUBSTANCE ABUSE.

Wesley Lewis
Signature of Patient or Legal Representative

10/16/18
Date

Description of Legal Representative's Authority

Expiration Date of Authorization

NOTICE OF RIGHTS: Information in your medical record that you have or may have a communicable or venereal disease is made confidential by law and cannot be disclosed without your permission except in limited circumstances including disclosure to persons who have had risk exposures, disclosure pursuant to an order of the court of the Department of Health, disclosure among health care providers or disclosure for statistical or epidemiological purposes. When such information is disclosed, it cannot contain information from which you could be identified unless disclosure of that identifying information is authorized by you, by an order of the court or the Department of Health or by law.

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P.O. Box 105568
Atlanta, GA 30348-5568



January 3, 2020

More Details

WESLEY A LEWIS

Member ID

Case Number
APP-COMM-301331

Date Request Received
December 30, 2019

Confidential Health Plan Information for:
WESLEY A LEWIS

Important information about your appeal.

Reviewed for your plan by Anthem UM Services, Inc.

Dear WESLEY A LEWIS,

We received an appeal on your behalf, but we need your approval before we can review it.

JAMES W DUNHAM, JR, ATTY-AT-LAW filed an appeal for you. We're just making sure we have your permission to review it. The form included is an incorrect form and not completed correctly. For these reasons, it is not valid.

To give us the go ahead, fill out the form we've included with this letter and mail it to: Grievances and Appeals, P.O. Box 105568, Atlanta, GA 30348-5568 or fax it to: 1-888-859-3046. If you'd rather file the appeal yourself, you can do that too.

Some things to note:

- If JAMES W DUNHAM, JR, ATTY-AT-LAW files the appeal, you won't be able to file a separate one for this service in the future.
- If there's more information about the appeal that you'd like us to review, feel free to send it our way.
- If we need more information, we may get in touch again or contact your doctor.

When we have your completed form, we'll get straight to reviewing the appeal. If you would like copies of any documents related to this request, let us know and we'll get them to you for free.

And if you have any questions, just give Customer Service a call at the phone number on your ID card.

Anthem Blue Cross and Blue Shield is the trade name of Community Insurance Company, independent member of the Blue Cross and Blue Shield Association. ANTHEM is a registered trademark of Anthem Insurance Companies, Inc. Anthem UM Services, Inc. is a member company providing utilization review services on behalf of Anthem Blue Cross and Blue Shield.

Member Standard Auto Plan (D01244) - Medical/Personal

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: 104184041
Date: December 31, 2019 at 9:45 AM
To: elawyer@swbell.net



Hello James Dunham Jr.

It has come to my attention you are trying to get an itemized lien from Anthem regarding Wesley Lewis. I have assist you with this request, although I will need additional information from you. Please email me a letter of representation with a signed authorization form from your client. Also I will need a description of the injury with a list of injuries. Please contact me if you need anything additional as I will be handling this case.

Thank you
Brittany Shepherd

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or may otherwise be protected by law. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message and any attachment thereto.

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Tuesday, December 31, 2019 11:15 AM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: {EXTERNAL} Re: 104184041

This email originated outside the company. Do not click links or attachments unless you recognize the sender.

Good morning Brittany. Thank you for calling (though I was unable to take your call) and this email.

Attached are an Anthem release and a Notice of Legal Representation, each signed by Mr. Lewis.

From the beginning, we have been trying to determine why Anthem, after having paid for all three phases of a pre-authorized medical treatment, forced the provider to refund payment for the first phase of the treatment. That provider is now pursuing Mr. Lewis for payment (notably, the full Chargemaster amount rather than the amount initially paid by Anthem to the provider). All we know is that Anthem forced the provider to refund the payment but we don't know WHY Anthem did that.

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119

clawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

Member: American Bar Association (ABA), Oklahoma Bar Association (OBA),
Washington State Bar Association (WSBA), American Association for Justice (AAJ)
and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after 1972. *Graeme Simsion, "The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: {EXTERNAL} Re: 104184041
Date: January 2, 2020 at 11:46 AM
To: Jay Dunham elawyer@swbell.net

I need more information regarding below. Is this regarding an accident? If so please give me details.

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Thursday, January 2, 2020 12:49 PM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

No. Illness (cancer, I believe).

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119
elawyer@swbell.net
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Member: American Bar Association (ABA), Oklahoma Bar Association
(OBA), Washington State Bar Association (WSBA), American Association for
Justice (AAJ) and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was
recorded after 1972. *Graeme Simson, "The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 2, 2020 at 12:12 PM
To: Jay Dunham elawyer@swbell.net

We are trying to get you to the correct department to get this handled. Thank you for being patient.

Thank you

Brittany Shepherd

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] On Behalf Of Jay Dunham
Sent: Thursday, January 2, 2020 1:27 PM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

Thank you, Brittany.

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119

clawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

Member: American Bar Association (ABA), Oklahoma Bar Association (OBA),
Washington State Bar Association (WSBA), American Association for Justice (AAJ)
and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after
1972. *Graeme Simsion, "The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 7, 2020 at 8:01 AM
To: Jay Dunham elawyer@swbell.net



Hello Jay

I was instructed to send this to you as the first one you provided was not dated. Please fill this out and send to the address on the form, if you have any questions you can call the number on the back of the health insurance card and speak to Appeals and Grievances.

Thank you
Brittany Shepherd

Instructions for Completing the Designation of Representative/Authorization Form



This form is to be used for a grievance or an appeal and to allow a party to act as the Authorized Representative in carrying out a grievance or an appeal.

If you have any questions, please feel free to call us at the customer service number on your member identification card.

Please read the following for help completing page one of the form.

PART A: MEMBER INFORMATION

This section applies to the member who is asking for the release of his or her information to another person or company or a request to appoint an Authorized Representative. Please include as much information as you can.

- 1 Print your last name, first name, and middle initial
- 2 Write your date of birth in this format: mm/dd/yyyy.
(If you were born on October 5, 1960, you would write 10/05/1960.)
- 3 Write your full street address, city, state, and ZIP code
- 4 Write your daytime phone number (including area code)
- 5 Identification number
You will find this number on your member identification card
- 6 Group number
You will find this number on your member identification card. If your identification card does not have a group number leave this blank.

PART B: PERSON OR COMPANY WHO CAN RECEIVE THIS INFORMATION

- 1 Check the box that applies to you. Write the full name of the person or company that you want us to give your information to. Please don't use a general term like "my daughter" or "my son" as it will not be accepted. You need to be specific.
- 2 If you check "Other," give the first and last name (if available), the name of the company (if applicable), and how they relate to you.

PART C: INFORMATION THAT CAN BE RELEASED

This section tells us what information you would like us to release: all or just some.

- 1 For "all of your information," check the first box (this does not include sensitive information).
- 2 For "limited information," check the second box and the boxes that apply to you.
- 3 Some topics may be very personal or sensitive to you. If you wish to approve the release of this type of information, check the box(es) that apply to you.

Designation of Representative/Authorization Form

Anthem BlueCross BlueShield

This form is to be used for a grievance or an appeal and to allow a party to act as the Authorized Representative in carrying out a grievance or an appeal. This form is to be filled out by an individual if there is a request to release an individual's health information to another person or company. Please include as much information as you can. If an individual wants to designate an Authorized Representative and related to a grievance and appeal, use the Member Authorization Form.

PART A: MEMBER INFORMATION

Member last name	Member first name	Member middle initial	Member date of birth
Member street address	City	State	ZIP code
Daytime phone number (include area code)	Member identification card	Group number (use identification card)	

PART B: PERSON OR COMPANY WHO CAN RECEIVE THIS INFORMATION

The following people or companies have the right to receive my information. They must be 18 years of age or older. Please check each box that applies and enter first and last name.

<input type="checkbox"/> My spouse (enter first and last name)	<input type="checkbox"/> My parents (if you are over 18 - enter first and last name)
<input type="checkbox"/> My domestic partner (enter first and last name)	<input type="checkbox"/> My business broker or agent (enter the name of the company and first and last name, if you have it)
<input type="checkbox"/> My adult children (enter first and last name)	<input type="checkbox"/> Other (enter first and last name if you have it, name of company, and how it's related to you)

PART C: INFORMATION THAT CAN BE RELEASED

I allow the following information to be used or released by Anthem Blue Cross and Blue Shield on my behalf (check only one box):

☐ All my information. This can include health, a diagnosis (name of illness or condition), claims, doctors and other health care providers and financial information (like billing and banking). This doesn't include sensitive information (see below) unless it is approved below.

OR

☐ Only limited information may be released (check all boxes below that apply to you).

<input type="checkbox"/> Appeal	<input type="checkbox"/> Eligibility and enrollment	<input type="checkbox"/> Referral
<input type="checkbox"/> Benefits and coverage	<input type="checkbox"/> Financial	<input type="checkbox"/> Treatment
<input type="checkbox"/> Billing	<input type="checkbox"/> Medical records	<input type="checkbox"/> Dental
<input type="checkbox"/> Claims and payment	<input type="checkbox"/> Doctor and hospital	<input type="checkbox"/> Vision
<input type="checkbox"/> Diagnosis (name of illness or condition) and procedure (treatment)	<input type="checkbox"/> Pre-certification and pre-authorization (for treatment approval)	<input type="checkbox"/> Pharmacy
		<input type="checkbox"/> Other:

I also approve the release of the following types of sensitive information by Anthem Blue Cross and Blue Shield (check all boxes that apply to you):

☐ All sensitive information

OR

☐ Just information about topics checked below:

<input type="checkbox"/> Abortion	<input type="checkbox"/> Genetic testing	<input type="checkbox"/> Mental health
<input type="checkbox"/> Sex (gender)/physician(s)	<input type="checkbox"/> HIV or AIDS	<input type="checkbox"/> Sexually transmitted illness
<input type="checkbox"/> Alcohol/substance abuse	<input type="checkbox"/> Maternity	<input type="checkbox"/> Other:

I understand that my alcohol/substance abuse records are protected under Federal and State confidentiality laws and regulations and cannot be disclosed without my written consent unless otherwise provided for in the laws and regulations. I also understand that I may revoke my consent at any time, or as described below in Part E. I understand that I cannot cancel this approval when this form has already been used to disclose information.

Anthem Blue Cross and Blue Shield is the trade name of: in Colorado: Rocky Mountain Hospital and Medical Service, Inc. (HMO products underwritten by HMO Colorado, Inc. in Connecticut: Anthem Health Plans, Inc. in Illinois: Anthem Insurance Company, Inc. in Kentucky: Anthem Health Plans of Kentucky, Inc. in Maine: Anthem Health Plans of Maine, Inc. in Missouri: Anthem Health Plans of Missouri, Inc. in New York: Anthem Health Plans of New York, Inc. in North Carolina: Anthem Health Plans of North Carolina, Inc. in Oklahoma: Anthem Health Plans of Oklahoma, Inc. in Oregon: Anthem Health Plans of Oregon, Inc. in Pennsylvania: Anthem Health Plans of Pennsylvania, Inc. in Rhode Island: Anthem Health Plans of Rhode Island, Inc. in South Carolina: Anthem Health Plans of South Carolina, Inc. in Tennessee: Anthem Health Plans of Tennessee, Inc. in Texas: Anthem Health Plans of Texas, Inc. in Virginia: Anthem Health Plans of Virginia, Inc. in Washington: Anthem Health Plans of Washington, Inc. in Wisconsin: Anthem Health Plans of Wisconsin, Inc. in Wyoming: Anthem Health Plans of Wyoming, Inc. Anthem Blue Cross and Blue Shield is the trade name of: in Arizona: Anthem Health Plans of Arizona, Inc. in California: Anthem Health Plans of California, Inc. in Florida: Anthem Health Plans of Florida, Inc. in Georgia: Anthem Health Plans of Georgia, Inc. in Hawaii: Anthem Health Plans of Hawaii, Inc. in Idaho: Anthem Health Plans of Idaho, Inc. in Iowa: Anthem Health Plans of Iowa, Inc. in Kansas: Anthem Health Plans of Kansas, Inc. in Louisiana: Anthem Health Plans of Louisiana, Inc. in Maryland: Anthem Health Plans of Maryland, Inc. in Massachusetts: Anthem Health Plans of Massachusetts, Inc. in Michigan: Anthem Health Plans of Michigan, Inc. in Minnesota: Anthem Health Plans of Minnesota, Inc. in Montana: Anthem Health Plans of Montana, Inc. in Nebraska: Anthem Health Plans of Nebraska, Inc. in Nevada: Anthem Health Plans of Nevada, Inc. in New Hampshire: Anthem Health Plans of New Hampshire, Inc. in New Jersey: Anthem Health Plans of New Jersey, Inc. in New Mexico: Anthem Health Plans of New Mexico, Inc. in New York: Anthem Health Plans of New York, Inc. in North Carolina: Anthem Health Plans of North Carolina, Inc. in North Dakota: Anthem Health Plans of North Dakota, Inc. in Ohio: Anthem Health Plans of Ohio, Inc. in Oklahoma: Anthem Health Plans of Oklahoma, Inc. in Oregon: Anthem Health Plans of Oregon, Inc. in Pennsylvania: Anthem Health Plans of Pennsylvania, Inc. in Rhode Island: Anthem Health Plans of Rhode Island, Inc. in South Carolina: Anthem Health Plans of South Carolina, Inc. in South Dakota: Anthem Health Plans of South Dakota, Inc. in Tennessee: Anthem Health Plans of Tennessee, Inc. in Texas: Anthem Health Plans of Texas, Inc. in Utah: Anthem Health Plans of Utah, Inc. in Vermont: Anthem Health Plans of Vermont, Inc. in Virginia: Anthem Health Plans of Virginia, Inc. in Washington: Anthem Health Plans of Washington, Inc. in Wisconsin: Anthem Health Plans of Wisconsin, Inc. in Wyoming: Anthem Health Plans of Wyoming, Inc. Anthem Blue Cross and Blue Shield Association (ANHEM) is a registered trademark of Anthem Insurance Company, Inc. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.

Please read the following for help completing page two and three of the form.

PART D: PERSON OR COMPANY WHO CAN ACT AS MY AUTHORIZED REPRESENTATIVE

This section tells us who you have given the right to act as your Authorized Representative in carrying out a grievance or appeal. Part B and C must also be completed to authorize the release of your information.

- Check the box that applies to you. Write the full name of the person or company that you want to act as your Authorized Representative. Please don't use a general term like "my daughter" or "my son" as it will not be accepted. You need to be specific.
- If you check "Other", give the first and last name (if available), the name of the company (if applicable, and how they relate to you.

PART E: DATE YOUR APPROVAL EXPIRES

You have two choices of when you would like this approval to end.

- Check the first box for the conclusion of the grievance or appeal process.
- Check the second box for an earlier date (please provide details).

PART F: PURPOSE OF THIS APPROVAL

This section tells us the reason you've asked for the release of your information.

- Check the first box to let us know who to give out this information as shown on this form.
- Check the second box to let us know what information to give out (identified in Part C).

PART G: REVIEW AND APPROVAL

- Sign your name and put the date on the form. Your name and signature *must* match the information in Part A.
- If you are signing this form on behalf of another person, or if you have Power of Attorney for health care, or are a legal guardian/conservator you must do the following:
 - You must complete the Designated Legal Representative/Guardian section.
 - You must also provide us with a copy of the legal document showing that you are approved and include it with this form.

PART D: PERSON OR COMPANY WHO CAN ACT AS MY AUTHORIZED REPRESENTATIVE	
<p>The following person or company has the right to act as my Authorized Representative. An Authorized Representative is a person who you appoint to be your representative in carrying out a grievance or appeal, including any external review rights that may be available to you. They must be 18 years of age or older. Please also complete Part B and C above to authorize the release of your information to your Authorized Representative.</p> <p>Please check each box that applies and enter first and last name:</p>	
<input type="checkbox"/> My spouse (enter first and last name)	<input type="checkbox"/> My parents (if you are over 18 - enter first and last names)
<input type="checkbox"/> My domestic partner (enter first and last name)	<input type="checkbox"/> My insurance broker or agent (enter the name of the company and first and last name, if you have it)
<input type="checkbox"/> My adult children (enter first and last names)	<input type="checkbox"/> Other (enter first and last name if you have it, name of company, and how it's related to you)
PART E: ONLY OUR APPROVAL EXPIRES	
<input type="checkbox"/> If this document was not already withdrawn, this approval will end:	
<input type="checkbox"/> At the conclusion of the grievance or appeal process.	
<input type="checkbox"/> Upon the date, event or condition described below (please provide details):	
PART F: PURPOSE OF THIS APPROVAL	
<input type="checkbox"/> To allow an individual to act as my Authorized Representative in carrying out a grievance or appeal, including any external review rights that may be available to me.	
<input type="checkbox"/> To discuss information at my request.	
PART G: REVIEW AND APPROVAL	
<p>I have read the contents of this form. I understand, agree, and allow Anthem Blue Cross and Blue Shield to use and release any information as I have stated above. I also understand that signing this form is of my own free will. I understand that Anthem Blue Cross and Blue Shield does not require that I sign this form in order for me to receive treatment or payment, or for enrollment or being eligible for benefits.</p> <p>I have the right to withdraw this approval at any time by giving written notice of my withdrawal to Anthem Blue Cross and Blue Shield. I understand that any withdrawing this approval will not affect any action taken before I do so. I also understand that information that's released may be given out by the person or group who receives it. If this happens, it may no longer be protected under the HIPAA Privacy Rule. I am entitled to a copy of this form.</p>	
Member signature or Designated Legal Representative/Guardian signature	Date

DESIGNATED LEGAL REPRESENTATIVE/GUARDIAN	
<p>If this form is signed by someone other than the member or parent, such as a personal representative, legal representative or guardian on behalf of the member, please select the following:</p> <ul style="list-style-type: none"> A copy of a health care, general or Durable Power of Attorney; OR A court order or other documentation that shows custody or other legal documentation showing the authority of the legal representative to act on the member's behalf. 	
Please complete the following:	
Legal representative (print full name)	Legal relationship to member
Legal representative's street address	City
Signature	State ZIP code
Date	Date
Please return the completed form to:	

Examples of legal documents:

- Health Care, General or Durable Power of Attorney.** This document gives someone you trust the legal power to act on your behalf and make health care decisions for you.
- Legal Guardianship.** This is when the court appoints someone to care for another person.
- Conservatorship.** This happens when a judge appoints a responsible person to make decisions for someone who can't make responsible decisions for him/herself.
- Executor of estate.** This type of document would be used when the person who is being represented has died.

Designation of Representative/Authorization Form

This form is to be used for a grievance or an appeal (see Section D) and to allow a party to act as the Authorized Representative in carrying out a grievance or an appeal. This form is to be filled out by an individual if there is a request to release an individual's health information to another person or company. Please include as much information as you can. (If an individual wants to designate an Authorized Representative not related to a grievance and appeal, use the Member Authorization form).

PART A: MEMBER INFORMATION

Member last name	Member first name	Middle initial	Member date of birth
Member street address	City	State	ZIP code
Daytime phone number (with area code)	Identification number (see identification card)	Group number (see identification card)	

PART B: PERSON OR COMPANY WHO CAN RECEIVE THIS INFORMATION

The following people or companies have the right to receive my information. They must be 18 years of age or older. Please check each box that applies and enter first and last name.

<input type="checkbox"/> My spouse (enter first and last name)	<input type="checkbox"/> My parents (if you are over 18 - enter first and last name(s))
<input type="checkbox"/> My domestic partner (enter first and last name)	<input type="checkbox"/> My insurance broker or agent (enter the name of the company and first and last name, if you have it)
<input type="checkbox"/> My adult children (enter first and last name(s))	<input type="checkbox"/> Other (enter first and last name (if you have it), name of company, and how it's related to you)

PART C: INFORMATION THAT CAN BE RELEASED

I allow the following information to be used or released by Anthem Blue Cross and Blue Shield on my behalf (check only one box):

- ☐ All my information. This can include health, a diagnosis (name of illness or condition), claims, doctors and other health care providers and financial information (like billing and banking). This doesn't include sensitive information (see below) unless it is approved below.

OR

- ☐ Only limited information may be released (check all boxes below that apply to you).

- | | | |
|---|--|---------------------------------------|
| <input type="checkbox"/> Appeal | <input type="checkbox"/> Eligibility and enrollment | <input type="checkbox"/> Referral |
| <input type="checkbox"/> Benefits and coverage | <input type="checkbox"/> Financial | <input type="checkbox"/> Treatment |
| <input type="checkbox"/> Billing | <input type="checkbox"/> Medical records | <input type="checkbox"/> Dental |
| <input type="checkbox"/> Claims and payment | <input type="checkbox"/> Doctor and hospital | <input type="checkbox"/> Vision |
| <input type="checkbox"/> Diagnosis (name of illness or condition) and procedure (treatment) | <input type="checkbox"/> Pre-certification and pre-authorization (for treatment approvals) | <input type="checkbox"/> Pharmacy |
| | | <input type="checkbox"/> Other: _____ |

I also approve the release of the following types of sensitive information by Anthem Blue Cross and Blue Shield (check all boxes that apply to you):

- ☐ All sensitive information

OR

- ☐ Just information about topics checked below

- | | | |
|---|--|---|
| <input type="checkbox"/> Abortion | <input type="checkbox"/> Genetic testing | <input type="checkbox"/> Mental health |
| <input type="checkbox"/> Abuse (sexual/physical/mental) | <input type="checkbox"/> HIV or AIDS | <input type="checkbox"/> Sexually transmitted illness |
| <input type="checkbox"/> Alcohol/substance abuse* | <input type="checkbox"/> Maternity | <input type="checkbox"/> Other: _____ |

*I understand that my alcohol/substance abuse records are protected under Federal and State confidentiality laws and regulations and cannot be disclosed without my written consent unless otherwise provided for in the laws and regulations. I also understand that I may revoke (or cancel) this approval at any time, or as described below in Part E. I understand that I cannot cancel this approval when this form has already been used to disclose information.

Anthem Blue Cross and Blue Shield is the trade name of: In Colorado: Rocky Mountain Hospital and Medical Service, Inc. HMO products underwritten by HMO Colorado, Inc. In Connecticut: Anthem Health Plans, Inc. In Indiana: Anthem Insurance Companies, Inc. In Kentucky: Anthem Health Plans of Kentucky, Inc. In Maine: Anthem Health Plans of Maine, Inc. In Missouri: Anthem Health Plans of Missouri, Inc. In New York: Anthem Health Plans of New York, Inc. In North Carolina: Anthem Health Plans of North Carolina, Inc. In North Dakota: Anthem Health Plans of North Dakota, Inc. In Ohio: Anthem Health Plans of Ohio, Inc. In Oklahoma: Anthem Health Plans of Oklahoma, Inc. In Oregon: Anthem Health Plans of Oregon, Inc. In Pennsylvania: Anthem Health Plans of Pennsylvania, Inc. In Rhode Island: Anthem Health Plans of Rhode Island, Inc. In South Carolina: Anthem Health Plans of South Carolina, Inc. In South Dakota: Anthem Health Plans of South Dakota, Inc. In Tennessee: Anthem Health Plans of Tennessee, Inc. In Texas: Anthem Health Plans of Texas, Inc. In Utah: Anthem Health Plans of Utah, Inc. In Vermont: Anthem Health Plans of Vermont, Inc. In Virginia: Anthem Health Plans of Virginia, Inc. In Washington: Anthem Health Plans of Washington, Inc. In West Virginia: Anthem Health Plans of West Virginia, Inc. In Wisconsin: Anthem Health Plans of Wisconsin, Inc. In Wyoming: Anthem Health Plans of Wyoming, Inc. Anthem Health Plans of Colorado, Inc. is a registered trademark of Anthem Insurance Companies, Inc. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.

PART D: PERSON OR COMPANY WHO CAN ACT AS MY AUTHORIZED REPRESENTATIVE

The following person or company has the right to act as my Authorized Representative. An Authorized Representative is a person who you appoint to be your representative in carrying out a grievance or appeal, including any external review rights that may be available to you. They must be 18 years of age or older. Please also complete Part B and C above to authorize the release of your information to your Authorized Representative.

Please check each box that applies and enter first and last name.

<input type="checkbox"/> My spouse (enter first and last name)	<input type="checkbox"/> My parents (if you are over 18 - enter first and last name(s))
<input type="checkbox"/> My domestic partner (enter first and last name)	<input type="checkbox"/> My insurance broker or agent (enter the name of the company and first and last name, if you have it)
<input type="checkbox"/> My adult children (enter first and last name(s))	<input type="checkbox"/> Other (enter first and last name [if you have it], name of company, and how it's related to you)

PART E: DATE YOUR APPROVAL EXPIRES

If this document was not already withdrawn, this approval will end:

- ☐ At the conclusion of the grievance or appeals process.
☐ Upon the date, event or condition described below (please provide details):

PART F: PURPOSE OF THIS APPROVAL

- ☐ To allow an individual to act as my Authorized Representative in carrying out a grievance or appeal, including any external review rights that may be available to me.
☐ To disclose information at my request.

PART G: REVIEW AND APPROVAL

I have read the contents of this form. I understand, agree, and allow Anthem Blue Cross and Blue Shield to the use and release of my information as I have stated above. I also understand that signing this form is of my own free will. I understand that Anthem Blue Cross and Blue Shield does not require that I sign this form in order for me to receive treatment or payment, or for enrollment or being eligible for benefits.

I have the right to withdraw this approval at any time by giving written notice of my withdrawal to Anthem Blue Cross and Blue Shield. I understand that my withdrawing this approval will not affect any action taken before I do so. I also understand that information that's released may be given out by the person or group who receives it. If this happens, it may no longer be protected under the HIPAA Privacy Rule. I am entitled to a copy of this form.

Member signature or Designated Legal Representative/Guardian signature

Date

X

DESIGNATED LEGAL REPRESENTATIVE/GUARDIAN

If this form is signed by someone other than the member or parent, such as a personal representative, legal representative or guardian on behalf of the member, please submit the following:

- A copy of a health care, general or Durable Power of Attorney; OR
- A court order or other documentation that shows custody or other legal documentation showing the authority of the legal representative to act on the member's behalf.

Please complete the following:

Legal representative (print full name)		Legal relationship to member	
Legal representative street address	City	State	ZIP code
Signature X			Date

Please return the completed form to:
Anthem Blue Cross and Blue Shield

Be sure to keep a copy of this form for your records.

FOR RECIPIENT OF SUBSTANCE ABUSE INFORMATION

This information has been disclosed to you from records protected by Federal Confidentiality of Alcohol or Drug Abuse Patient Records rules (42 CFR part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Monday, January 13, 2020 3:25 PM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

Brittany, we had Mr. Lewis re-sign and date Anthem's designation form... the 3rd time. It is attached. Before I post it to you via US Mail, please confirm that it is properly completed. I also need your mailing address.

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119
clawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

Member: American Bar Association (ABA), Oklahoma Bar Association (OBA),
Washington State Bar Association (WSBA), American Association for Justice (AAJ)
and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after 1972. Graeme Simsion, *"The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 15, 2020 at 8:52 AM
To: Jay Dunham elawyer@swbell.net

Looks good to me.

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Tuesday, January 21, 2020 11:46 AM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

Good morning, Brittany:

I had an extended discussion last Friday with Mr. Lewis' oncologist, her billing clerk and the hospital billing office and I think I have a solid handle on how this case got into it's current posture.

You recently said you were trying to decide who I should be talking to on the Anthem side. I feel you could benefit in that effort if we talked so I could share with you what I learned. Can we speak? If so, is there a number at which I can reach you?

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119
clawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
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and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after 1972. *Graeme Simsion, "The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 21, 2020 at 11:15 AM
To: Jay Dunham elawyer@swbell.net

Hello Jay

I don't have any insight on appeals. You will have to contact customer service to discuss the appeal. Sorry I couldn't be of any more help.

Thank you

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Tuesday, January 21, 2020 12:26 PM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

Customer Service? That will, basically, put me right back where I started more than a year ago. Did you not understand that's what I've been trying to for over a year - get the administrative record for this claim so that I could submit a proper **appeal** on behalf of your insured? Customer Service? That's where I started a year ago and it's led me here, to you. Now you're saying I have to start all over again? It would likely be simpler and more effective to just file a lawsuit. I don't want to do that unless I have no other option and, quite frankly, starting all over again with Customer Service is not much of an option.

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119

elawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

Member: American Bar Association (ABA), Oklahoma Bar Association (OBA),
Washington State Bar Association (WSBA), American Association for Justice (AAJ)
and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after 1972. *Graeme Simsion, "The Rosie Project"*

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 22, 2020 at 8:39 AM
To: Jay Dunham elawyer@swbell.net

Hello Jay

Can you give me a call today when you get a second? I will also try and contact you today as well.

Thanks
Brittany Shepherd

From: Jay Dunham [mailto:jaydunhamlaw@gmail.com] **On Behalf Of** Jay Dunham
Sent: Wednesday, January 22, 2020 7:56 AM
To: Shepherd, Brittany <brittany.shepherd@anthem.com>
Subject: Re: {EXTERNAL} Re: 104184041

Yes. I have an early appearance to make in court but will call you immediately after, perhaps 10:00 CST. What is the best number?

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119
clawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

Member: American Bar Association (ABA), Oklahoma Bar Association (OBA),
Washington State Bar Association (WSBA), American Association for Justice (AAJ)
and Oklahoma Association for Justice (OAJ)
Rated AV "Preeminent" by Martindale-Hubbell ©

I can make a well-reasoned argument that nothing worth listening to was recorded after 1972, Graeme Simson, "*The Rosie Project*"

From: Shepherd, Brittany brittany.shepherd@anthem.com
Subject: RE: (EXTERNAL) Re: 104184041
Date: January 22, 2020 at 6:58 AM
To: Jay Dunham elawyer@awbell.net

Call me at 502-889-2589. Email me before so I can have a heads up.

Thank you

From: Jay Dunham <elawyer@swbell.net>
Subject: Re: {EXTERNAL} Re: 104184041
Date: January 22, 2020 at 7:00:57 AM CST
To: "Shepherd, Brittany" <brittany.shepherd@anthem.com>

Thanks. I will.

Jay Dunham, Esq.
2800 Bank of America Center
15 W. 6th Street
Tulsa OK 74119
elawyer@swbell.net
918-592-1144 (Voice)
918-592-1149 (Fax)
918-691-4246 (Cell)

James W. Dunham, Jr.*

Bank of America Center
15 West 6th Street, Suite 2800
Tulsa, OK. 74119

Attorney at Law

Voice: (918) 592-1144
Fax: (918) 592-1149
Email: clawyer@jwdll.net

Practice limited to ERISA

Tuesday, February 25, 2020

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

RE: Insured: **Wesley Lewis**
Claim No:
Member ID:
Case Number: **APP-COMM-18015**
Policyholder: **Public Service Company of Oklahoma**

Sir or Ma'am:

I again take pen in hand to try, for the 5th time, to secure information regarding the partial denial of Mr. Lewis' reimbursement claim - or, to be more precise, the partial denial of his care providers' reimbursement claim(s). As his legal representative, I need that record to properly appeal Anthem's recall of a reimbursement made for the first phase of a three phase "SIRI" or "Stereotactic Body Radiation Therapy".

The date of service was May 8th, 2018 and was billed at \$23,352.00. I have been informed that the "allowed" portion of that bill was initially paid but later recalled. It was suggested by one Anthem employee I spoke with that, after it was recalled, the recall was retracted and the reimbursement reinstated. But that could not be confirmed and no one at your end was willing to inform the collection agency pursuing your insured that turning the account for collection was a mistake. Your reference to that phone call was/is 02200224202300.

Our 1st request for a copy of the administrative record for this denial of benefits was a letter to Anthem dated October 16th, 2018. A copy is enclosed (Exhibit A). All we received in response was a bill from MRO ("Medical Records Online", a resource that gathers medical records for a fee) for copies of Mr. Lewis' medical records. Because we never asked for Mr. Lewis' medical records, and had no need for them, we so advised MRO. On January 8th, 2019, we sent a 2nd request to Anthem for Mr. Lewis administrative record (Exhibit B). This was ignored. On October 23rd, 2019, we sent a 3rd request, but to the Plan Administrator, the "AEP System Comp. Medical Plan", in Columbus, Ohio (Exhibit C). This was responded to in the form of a copy of the policy and a letter stating that everything else had to be requested from you, Anthem. A copy of that letter, dated November 26th, 2019, is enclosed (Exhibit D).

As you can see, the letter from AEP was authored by its chief in-house counsel, Mr. Martin Rosenthal. He enclosed a copy of the relevant policy but indicated the rest of the administrative record would have to come from Anthem. He also opined that, perhaps, Anthem's failure to respond to my requests for Mr. Lewis' administrative record was premised upon the possibility that his (Mr. Lewis') appointment of this office as his legal counsel was not proper or, at least, not on a proper form. Mr. Rosenthal supplied the form he thought necessary.

Mr. Lewis completed that form and we sent it to you, along with our 4th request, on December 19th, 2019 (Exhibit E). This triggered two interesting responses. First, an email from Brittany Shepard stating:

Hello James Dunham Jr.

It has come to my attention you are trying to get an itemized lien from Anthem regarding Wesley Lewis. I have assist you with this request, although I will need additional information from you. Please email me a letter of representation with a signed authorization form from your client. Also I will need a description of the injury with a list of injuries. Please contact me if you need anything additional as I will be handling this case.

Thank you

Brittany Shepherd

"Finally", I thought. I should be able to get the administrative record now.

Second, Mr. Lewis received a letter dated 1/3/20, stating:

We received an appeal on your behalf. but we need your approval before we can review it.

JAMES W DUNHAM, JR, ATTY-AT-LAW filed an appeal for you. We're just making sure we have your permission to review it The form included is an incorrect form and not completed correctly For these reasons. it is not valid.

Even setting aside the grammatical, capitalization and punctuation errors, this letter was a head scratcher. I had not sent an appeal. Rather, for more than 14 months, I had been desperately trying to get the full administrative record so I *COULD* file an appeal. Was Anthem intentionally withholding the administrative record upon the false premise that an appeal had already been submitted? Or was this yet another indication that Anthem's right hand has no idea what it's left hand is doing and it has no inkling of what its legal obligations are to its insured? Further, "incorrect form"? It's the very form sent by Mr. Rosenthal - properly completed and signed.

I set that letter aside and began working with Ms. Shepard. She informed me that the "form" referenced in the letter was the representative designation. Apparently, it was undated, so a new one was required. I had Mr. Lewis complete (and date) a new one and emailed it to Ms. Shepard. She said it looked fine. Then, out of the blue, she sent an email stating "I don't have any insight on appeals. You will have to contact customer service to discuss the appeal. Sorry I couldn't be of any more help." I asked her to continue helping and in a telephone conversation lasting well more than two hours and involving multiple Anthem employees (again, call # 02200224202300) I was informed that because the designation form was undated the "appeal" - presumably the one referenced in the letter sent to Mr. Lewis - had been "closed" and, if I wanted to reopen it, I needed to send a request to "Grievances and Appeals" in Atlanta.

Take a look at my 1st request. It was submitted to "Grievances and Appeals" in Atlanta. In other words, after 14 months of trying to get the administrative record so that I could do the job Mr. Lewis asked me to do, being led down one dead-end rabbit hole after another, I was told to start all over again.

Enclosed is a renewed "formal" request for the administrative record, Mr. Lewis' 5th. As you can see, it is from and signed by Mr. Lewis himself so, if Anthem has an internal policy disallowing participants from appointing attorneys at law to help them in acquiring administrative records or submitting claims [a policy that would be in direct violation of 29 C.F.R. 2560.503-1(b)(4)], that policy is not implicated. Also enclosed is a duly completed, dated and signed "Designation of Representative/Authorization Form" -which, not incidentally, also allows your release, to this office, of PHI as defined by HIPPA.

This letter, the one your holding and reading right now, with attached exhibits, is an explanation of the tortured path by which Mr. Lewis' 5th request came to be submitted to you.

If you have any questions, please don't hesitate to call. Until then, I am

Sincerely Yours
COPY
James W. Dunham Jr.
Attorney at Law

cc: **Martin Rosenthal**

Designation of Representative/Authorization Form



This form is to be used for a grievance or an appeal (see Section D) and to allow a party to act as the Authorized Representative in carrying out a grievance or an appeal. This form is to be filled out by an individual if there is a request to release an individual's health information to another person or company. Please include as much information as you can. (If an individual wants to designate an Authorized Representative not related to a grievance and appeal, use the Member Authorization form).

PART A: MEMBER INFORMATION

Member last name: Lewis Member first name: Lucy Middle: Marie Member date of birth: 01/11/46
 Member street address: 2101 E. 1st St. State: OK ZIP code: 73104
 Daytime phone number (with area code): 405-441-6665 Identification number (see certification and authorization form): 00000000000000000000

PART B: PERSON OR COMPANY WHO CAN RECEIVE THIS INFORMATION

The following people or companies have the right to receive my information. They must be 18 years of age or older. Please check each box that applies and enter first and last name.

- ☐ My spouse (enter first and last name) ☐ My parents (if you are over 18 - enter first and last name(s))
☐ My domestic partner (enter first and last name) ☐ My insurance broker or agent (enter the name of the company, and first and last name if you have it)
☐ My adult children (enter first and last name(s)) ☒ Other (enter first and last name if you have it, name of company, and how it is related to you)
Attorney James W. Dunham

PART C: INFORMATION THAT CAN BE RELEASED

I allow the following information to be used or released by Anthem Blue Cross and Blue Shield on my behalf (check only one box).

- ☒ All my information. This can include health, a diagnosis (name of illness or condition), claims, doctors and other health care providers and financial information (like billing and banking). This doesn't include sensitive information (see below) unless it is approved below.

OR

- ☐ Only limited information may be released (check all boxes below that apply to you).

Appeal
 Benefits and coverage
 Billing
 Claims and payment
 Diagnosis (name of illness or condition) and procedure (treatment)

☐ Eligibility and enrollment
☐ Financial
☐ Medical records
☐ Doctor and hospital
☐ Pre-certification and pre-authorization (for treatment approvals)

Referral
 Treatment
 Dental
 Vision
 Pharmacy
 Other

I also approve the release of the following types of sensitive information by Anthem Blue Cross and Blue Shield (check all boxes that apply to you):

- ☒ All sensitive information

OR

- ☐ Just information about topics checked below

Abortion
 Abuse (sexual/physical/mental)
 Alcohol/substance abuse

Genetic testing
 HIV or AIDS
 Maternity

Mental health
 Sexually transmitted illness
 Other

I understand that my alcohol/substance abuse records are protected under Federal and State confidentiality laws and regulations and cannot be disclosed without my written consent unless otherwise provided for in the laws and regulations. I also understand that I may revoke (or cancel) this approval at any time, or as described below in Part E. I understand that I cannot cancel this approval when this form has already been used to disclose information.

THIS FORM IS TO BE USED FOR A GRIEVANCE OR AN APPEAL (SEE SECTION D) AND TO ALLOW A PARTY TO ACT AS THE AUTHORIZED REPRESENTATIVE IN CARRYING OUT A GRIEVANCE OR AN APPEAL. THIS FORM IS TO BE FILLED OUT BY AN INDIVIDUAL IF THERE IS A REQUEST TO RELEASE AN INDIVIDUAL'S HEALTH INFORMATION TO ANOTHER PERSON OR COMPANY. PLEASE INCLUDE AS MUCH INFORMATION AS YOU CAN. (IF AN INDIVIDUAL WANTS TO DESIGNATE AN AUTHORIZED REPRESENTATIVE NOT RELATED TO A GRIEVANCE AND APPEAL, USE THE MEMBER AUTHORIZATION FORM.)

Version 4.0 12/16

PART D: PERSON OR COMPANY WHO CAN ACT AS MY AUTHORIZED REPRESENTATIVE

The following person or company has the right to act as my Authorized Representative. An Authorized Representative is a person who you appoint to be your representative in carrying out a grievance or appeal, including any external review rights that may be available to you. They must be 18 years of age or older. Please also complete Part B and C above to authorize the release of your information to your Authorized Representative.

Please check each box that applies and enter first and last name

☐ My spouse (enter first and last name)

☐ My parents (if you are over 18 - enter first and last name(s))

☐ My domestic partner (enter first and last name(s))

☐ My insurance broker or agent (enter the name of the broker, and first and last name if you have it)

☐ My adult children (enter first and last name(s))

☒ Other (enter first and last name if you have it, name of company, and title if applicable)

My attorney James W. Durham

PART E: DATE YOUR APPROVAL EXPIRES

If this document was not already withdrawn, this approval will end

☐ At the conclusion of the grievance or appeals process

☒ Upon the date, event or condition described below (please provide details)

On January 15, 2023

PART F: PURPOSE OF THIS APPROVAL

☒ To allow an individual to act as my Authorized Representative in carrying out a grievance or appeal, including any external review rights that may be available to me.

☐ To disclose information at my request.

PART G: REVIEW AND APPROVAL

I have read the contents of this form. I understand, agree, and allow Anthem Blue Cross and Blue Shield to use and release my information as I have stated above. I also understand that signing this form is of my own free will. I understand that Anthem Blue Cross and Blue Shield does not require that I sign this form in order for me to receive treatment or payment, or for enrollment or being eligible for benefits.

I have the right to withdraw this approval at any time by giving written notice of my withdrawal to Anthem Blue Cross and Blue Shield. I understand that my withdrawing this approval will not affect any action taken before I do so. I also understand that information that's released may be given out by the person or group who receives it. If this happens, it may no longer be protected under the HIPAA Privacy Rule. I am entitled to a copy of this form.

Member signature or Designated Legal Representative/Guardian signature

☒ 

Date

1-8-23

Wesley Lewis

CERTIFIED MAIL: Return Receipt RequestedFebruary 25th, 2020

The AEP System Comp. Medical Plan
c/o AEP Service Corporation, Adm.
1 Riverside Plaza
Columbus OH 43215

Anthem Blue Cross and Blue Shield
Grievances and Appeals
P. O. Box 105568
Atlanta GA 30348-5568

RE: Insured: Wesley Lewis
Claim No:
Member ID:
Case Number: APP-COMM-18015
Policyholder: Public Service Company of Oklahoma

Dear Sir or Ma'am:

My name is Wesley Lewis. Pursuant to my right as a participant and beneficiary of Plan, I respectfully request copies of the following materials

1. Copies of the Summary Plan Description (SPD) and other Plan Documents relating to my health insurance coverage for years 2018, 2019 and 2020, and;
2. Administrative Services Contract between (Employer Plan) and (Plan Insurer(s)/Claims Administrator) for the years 2018, 2019 and 2020, and;
3. Copies of all contracts including, but not limited to: Insurance contracts, Stop Loss Contracts, Health Insurance Contracts, Insurance Intermediary Services Contracts, and Administrative Services Contracts related to Medical Plan serving (insert name of state or region encompassing client) participants for the years 2018, 2019 and 2020, and;
4. Amendments to the Plan Documents for Medical Plan (including, but not limited to the Summary Plan Description) for the years 2018, 2019 and 2020, and;
5. Copies of the SMM (Summary of Material Modifications) statements for the years 2018, 2019 and 2020, and;
6. Copies of form 5500, including all attached schedules, filed with the U.S. Department of Labor for the years 2018, 2019 and 2020.

Please forward these materials to:

Mr. Wesley Lewis
c/o James W. Dunham, Jr.
Suite 2800, Bank of America Ctr.
15 W. 6th Street
Tulsa OK 74119

Finally, please note that you must comply with this request within 30 days of receiving it. In the event you fail to do so, the law provides for a per diem penalty of up to \$1,000 per day.

Thank you.

COPY**COPY**

Wesley Lewis, Plan Participant

Date